

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 23rd NOVEMBER 2021

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[9:31]

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

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

1.2 Remote operation

We are obviously operating entirely remotely so no one who is not using a laptop or other device will be able to participate. I mention that, Deputy Southern, because you do not appear to have a screen open in front of you and I know you have questions coming along later. I do not know if appropriate arrangements can be made.

The Bailiff:

Deputy Ward, did you have a question?

Deputy R.J. Ward of St. Helier:

Yes, Sir. I wonder if I may ask leave of the Assembly to move the statement from the Children and Education Home Affairs Panel to the beginning of the sitting.

The Bailiff:

To be taken next, in effect?

Deputy R.J. Ward:

Yes, please, Sir.

The Bailiff:

Would you like to explain to the Assembly why that would be your wish?

Deputy R.J. Ward:

We believe it is particularly pertinent at this time in terms of its content and requirement. Also we note that the Minister has questions without notice and opportunity to respond. I think there will be a number of questions that will come with the statement. I just feel that it is a very good use of Assembly time if we can take it first, and that can generate questions for later on.

The Bailiff:

So you are asking the Assembly to bring forward your statement to this point in time. Is that seconded? **[Seconded]** I am going to assume, unless any Member wishes to speak on the matter would they indicate in the chat now, I will take it on a standing vote unless people wish to speak. Does anyone have anything they wish to say about that? I will assume that that is adopted on a standing vote unless anyone indicates they would wish a formal vote to be recorded. That is adopted on a standing vote. Deputy, you may make the statement now and in the normal way it will be followed by the opportunity for people to ask questions of you. Do we have it for circulation at this point, Greffier? Is there a paper copy that I could have in front of me.?

Deputy R.J. Ward:

I can put something in the chat, if you want. Unless the Greffier is probably on that already, I would imagine.

The Bailiff:

Yes, I would prefer to have a hard copy. I am a bit of a luddite but if there is no hard copy I will look at it on the ... is there a link then? Can we place it in the link? It is uploading, thank you. I have noted Senator Ferguson and the Deputy of Trinity have indicated in the chat they are present. I am going to mark them as present. They have had difficulties with their microphones apparently. While we are waiting for that I can make a ruling, from the Chair, that I have been asked by Deputy Doublet to consider the answer to Written Question 459 provided by the Chief Minister. That is under the provisions of Standing Order 12(2A), which requires that a Member who gives a written answer to a question must give an answer that is directly relevant to the question asked. The question asked the Chief Minister about the pre-registration of sites on publicly-owned land for outdoor weddings. It asks for tabular information under 4 separate headings. Firstly, all sites currently registered, all sites planned to be registered, the expected cost of using each site, and the anticipated date of the availability of each site. The answer confirms in a couple of paragraphs that the work was that of the superintendent registrar but it was interrupted by the pandemic and has not yet been started. It states that one-off sites may be available. The answer does, in my judgment, not seek to address any of the specific questions. It may be that the answer to each and all of them are none or nothing but it does not say so in its terms. In my judgment, therefore, Standing Order 12(2A) is not met and a new answer should be tabled by 9.30 a.m. tomorrow morning in accordance with Standing Order 12(4)(c).

[9:45]

I still do not appear to have the statement up on the screen. The entire text of the statement has now been put into the chat.

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

2. The Chair of the Children, Education and Home Affairs Scrutiny Panel will make a statement regarding Ministerial responsibility

2.1 Deputy R.J. Ward (Chair, Children, Education and Home Affairs Scrutiny Panel):

First and foremost, I would like to express my disappointment at having to make this statement today and it is not something which has been taken lightly. The Children, Education and Home Affairs Panel, as with all other Scrutiny Panels, has been undertaking a review of the proposed Government Plan 2022-2025 with the intention of providing its report for the consideration of States Members before the debate on 14th December. One of the key areas being assessed by the panel during this review is that of the funding for education and the education reform programme. By way of background, the education reform programme arose from the independent school funding review and intends to make substantial changes to the operation of the education system over the next 4 years. Two of the key aspects of this programme of reform relate to development of a new school funding formula - which is the formula by which funding per student is allocated - and development of S.E.N. (special educational needs) services for children and young people. These 2 areas are vital to the education reform programme and, as such, the panel deem them critical components of any review into the programme. In order to inform its review of this aspect of the Government Plan, the panel made a request to the Minister for Children and Education on 13th October requesting, in confidence, the final inclusion review report, which was understood to have been in a final draft for the Minister to consider, and details of the revised funding formula for schools, whether completed or in draft form. Despite repeated requests to have this information shared with the panel, including during a public hearing on 1st November, over 30 days later the information had yet to be provided, despite the code of engagement between the Executive and Scrutiny Panels and the Public Accounts Committee setting out a 5-day response time for requests for information. The panel received a response from the Minister on Monday, 22nd November,

which explained that it was intended for the inclusion review report to be taken to the Council of Ministers on 30th November. Furthermore, only information previously provided to the panel in relation to the funding formula was shared. I must be clear; the panel's request was for sight of the inclusion review report itself and the details of the actual funding formula. While the panel thanks the Minister for his response, neither of these pieces of information specifically requested have been provided to the panel. The reason for making this statement today is that we, as a panel, need to highlight the difficult task we have been presented with undertaking scrutiny of the Government Plan, especially the funding of education, which is one of the most important areas of investment within the Government Plan. The panel deems the information requested vital to its review and without it, it cannot deliver an objective assessment and fulfil its role. The reality of education funding cannot be assessed without this information and given further demographics and revenue funding are likely to be allocated using the new formula, the panel cannot state whether the funding allocated is sufficient without sight of the new formula. The panel would also note the importance of the fact that the current formula is nearly 30 years old. The panel has taken evidence from the board of governors of Haute Vallée School that there is a £23 million deficit within education funding. While the Minister initially rebutted this figure publicly during a hearing, he went on to state that a figure was being quality assured as part of the school funding formula process. The panel has been informed that a quality assurance process is being undertaken, however, there have been very few details shared with us as to what the process entails other than those that are involved in the process itself. In order for the new formula to be in place for 2022, there is little time left for this to be completed to allow for examination by the panel should this information not be available to the panel. Regarding the inclusion review report, the panel notes that under the Education (Jersey) Law 1999, the Minister has a duty to provide special educational needs provision for every child that requires it (Article 29(2)). This report is clearly a very important part of enabling the Minister to fulfil that duty by identifying the manner in which a special educational needs provision is allocated, and of course how it is funded to achieve its aims. Again, this is a fundamental part of the education reform programme and, in order to provide a full and objective assessment of funding being allocated to special educational needs provision, the panel must have sight of this report to ascertain the direction of travel. As outlined at the beginning of the statement, the panel has not taken the decision to make this statement lightly but given the situation it finds itself in with regards to this information, it has had no further choice than to raise this in the States Assembly. While the Minister has responded to the panel, and it is thankful for the response, it would raise the point that the specific information requested has yet to be provided to it. The panel feels it has been clear in this regard and, as such, it is concerned that this information has yet to be shared with it. The panel would reiterate that this is a disappointing situation, and it would request that the Minister provides the information to it prior to the end of today's sitting.

The Bailiff:

Thank you very much, Deputy Ward. There is now a period of 15 minutes allocated for potential questions. If people would please indicate their desire to ask a question in the chat in the normal way.

2.1.1 Senator S.Y. Mézec:

Could the chairman clarify what impact he thinks this will have on the final report from his Scrutiny Panel? Why it is so important that they get the information that they are asking for in a timely way.

Deputy R.J. Ward:

I would say, as in the statement itself, one of the things we have to try and do in Scrutiny is provide objective and data-driven reviews of the Government Plan, and particularly funding in the Government Plan. Without knowing the criteria funding in the school funding formula, which as we mentioned is 30 years out of date, and we are very pleased that it is being looked at, then I am afraid we cannot provide an accurate outline of whether the panel believes that adequate funding is being provided for education as we move forward. A particular concern of the panel, as we have raised a number of times, is to change the demographics. If we are funding increased demographics that happen every now and then with inadequate formula we are just compounding issues that may arise. Part of Scrutiny is to outline and uncover those issues in order to assist, as much as anything. I hope that answers the Senator's question.

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

My question to the Deputy revolves around the general ability of Government to respond to Scrutiny questions and I would appreciate his views on that. I am going to refer, for his benefit, to the responses that my panel has had in the same vein.

The Bailiff:

I am sorry, Connétable, this does have to be questions relating directly to the statement. I think if there were to be a statement from the Scrutiny chair about Scrutiny issues more generally then that would be a legitimate area but if you have a question about the specific statement then that would be in accordance with Standing Orders but I do not believe otherwise.

The Connétable of St. Helier:

I would like to just contain myself, if I may, to the general response of Government to not only the Deputy's points he has made in the statement but really ask him whether he considers the responses given by Government are satisfactory to Scrutiny in general?

Deputy R.J. Ward:

In terms of general for the panel itself, it has been mixed. Indeed, we have had in this Assembly the Minister compliment the panel on the work it has been doing and the thoroughness of its work. We do believe that as a panel that the more information we are given the better we can perform our role. It may not be liked at times any conclusions that we come up with but, hey-ho, that is the way things go, I am afraid. What I would say to the Constable is we raise this today because we have had serious concerns about the information that we are being given and we recognise it has been a difficult time with COVID and so on. But we are coming out of that now. Many of the staff are back in position, these reviews have been in place for a long time, and I think it is about time that the Scrutiny Panels were perhaps given a little bit more priority, particularly as we come to this Government Plan, which is the last one before the election and we need to get it right. I hope that answers the Constable's question. It was quite a difficult one because it was general.

2.1.3 Deputy I. Gardiner of St. Helier:

I would like to ask the chair if he can advise what explanation, if any, was given by the Minister, by the Government, why the requested information was not provided.

Deputy R.J. Ward:

I thank the Deputy. I would not speak for anyone else but the impression that we are getting as a panel is there seemed to be a priority in the documents themselves going through a number of processes, even though there is a document for Scrutiny to look at. There does seem to be, and I think this is a concern, and I may be wrong about this and, if so, I will hold my hand up and say that is not the case. There does seem to be a priority of documentation going to the Council of

Ministers and there is nothing - and correct me if I am wrong, anybody in the Assembly - that says that documents need to go through the Council of Ministers before they go to Scrutiny. I think we are conflating 2 processes there. Scrutiny is a process of knowing and tracking the development of policy and document as much as anything else. We do our work best when we see documentation early. I think it may well be that the documents are wanted to be completed before they come to "Scrutiny" but I think that misses out a very crucial part of the process itself, which is those independent and neutral eyes of Scrutiny looking up and raising those really challenging questions. That may be the issue itself. Again I hope I have answered the question for the Deputy there.

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

To the panel's knowledge, how long has the school funding formula been worked on? Is this a recent project or is it something that has been going on for a number of years?

Deputy R.J. Ward:

That is a very good question, and I am afraid I cannot answer in detail as to the actual date. We know that this funding formula has been discussed with headteachers this year; towards the middle of this year we believe. Certainly when we had the representation from the governors of Haute Vallée, they seemed to suggest that that had happened certainly in October, or before October, where they came to us and then raised this issue of a £23 million deficit. So certainly the school funding formula has been discussed, worked upon over this year. It is, I mention to the Deputy, part of that wider education reform programme and indeed a crucial part of the education reform programme which started over 6 months ago - over a year ago, I believe - this is when Senator Vallois would be very useful, who is on the panel, to give you the precise dates. But certainly way before the date that we asked for the actual documentation. I hope that answers the Deputy's question as best as possible.

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

I would like to ask the chair of the panel if this information is not forthcoming within the timescale that has been specified in his statement what might the next steps be, given the vital importance of this information to the panel's review?

Deputy R.J. Ward:

That is a very good question. Part of the time, as chair of a panel, what you want to do is you want to try and take things through stages. We have asked for this information a number of times. We have emailed, we have written, we have raised it in public hearings, we are raising it today so we hope that another step will not have to be taken, to be quite frank. After that, whether we can - I do not know what the word is, and, Sir, you can correct the word - I do not know if it is subpoena information or force information to be passed to us. That is not a road that we want to go down because we have not had that type of relationship before in Scrutiny in this panel, so we do not want to do that. I think the sensible outcome here is to give the panel the information in confidence. We have asked for it in confidence before so that we can make a genuine outcome of this.

[10:00]

I remind the Assembly, and I remind the Deputy, I am sure she knows, the deadline for amendments to the Government Plan is 30th November. One of the things that Scrutiny Panels are left with are amendments if they see an inadequacy of funding. We cannot do that if this is going to come to us after 30th November. I think what it does is it stumps the process of scrutiny to some extent. I hope that does answer your answer.

2.1.6 Connétable A. Jehan of St. John:

The Deputy mentioned S.E.N. funding in his statement. Is he aware that there is anything between 12 and 18 months to assess children and that schools are not able to access the funding for pupils until that assessment has taken place? Will his review cover this area please?

Deputy R.J. Ward:

I thank the Constable for the question. In terms of the specifics about waiting times for S.E.N., I think this is part of the school inclusion review that we need to see the outcomes of and what the targets may be for that type of assessment, how that process will happen and how that will be improved. Now in terms of how that is done, to some extent that is not for the Scrutiny Panel, that is for the Minister and for the department. But as a Scrutiny Panel it is certainly something we would look at. In terms of this Government Plan review, what we have to do is ensure that the funding allocated for the aims of that special educational needs review is adequate and we need to be able to do that objectively so that we can come to this Assembly if it is not and say: “We do not believe that this is adequate, we require this extra funding” and then it is for the Assembly to decide. I think that is where these things are linked together.

2.1.7 Deputy G.P. Southern of St. Helier:

I just wanted to confirm with the chair that the absence of this information precludes then from bringing a decent amendment to the Government Plan and stops them from doing their fundamental work.

Deputy R.J. Ward:

To a large extent the answer to that question is yes. However, the panel would be able to bring amendments but they would not be accurate. They would not be accurate in terms of the funding required, putting figures on them, to know what the intention, the outcome of the school funding formula is. Because if we bring an amendment that says we need this amount of extra funding for education to cover beyond deficits, et cetera, and I will say to the Deputy the actual funding at the moment and the extra money is an extremely complex mix of funding - and this is what we found from the Scrutiny Panel - from deficits, funding for different areas of the education reform programme and then what monies are extra into schools. So it would be very difficult to bring amendments. It does not mean that the panel will not try but I think in terms of the efficiency of this - dare I use that word - Assembly in looking at amendments it certainly would not help the Scrutiny Panel and it does tie the Scrutiny Panel's hands.

2.1.8 Senator S.W. Pallett:

Not that the chair or his panel should have to do this but I just wondered whether the chair or the panel have tried any engagement with the Chief Minister or directly to the Council of Ministers in regards to this. If so, what the response has been, either formally or informally.

Deputy R.J. Ward:

I believe that what the Scrutiny Panel has to do is be respectful to the Minister and deal with the Minister directly and deal with the Education Department. That is what we have done and I think that is our first port of call, and I would not want that to be beyond that. There is a historical issue in terms of this panel in terms of the number of Ministers that we have had and the Chief Minister was the Minister for Education for a short time. So I suppose you could say perhaps we should have engaged then. However we did wait really until there was a more settled - and I see Deputy Doublet nodding because I am right in saying that - situation and then went to the Minister ... I gave the date in the statement, which has now completely gone out of my head, it was in October. So I think to the Senator I would say we have dealt with the Minister because that is our role. We

have not gone to the Chief Minister in that way because we do not feel that is an appropriate thing to do at this time.

2.1.9 Senator K.L. Moore:

As a member of the Scrutiny Liaison Committee, has the chair approached the Chief Minister with that committee to engage with him about reluctance of Ministers to share information with them in a timely fashion?

Deputy R.J. Ward:

As the Senator may be aware, yes we have. I think in public hearings as well we have asked about more in terms of the legislative programme and what we will be scrutinising, because the time and the dates for that and the process of that is vital for us to understand where we are coming from and the work programme itself. We have also asked questions of the Chief Minister in hearings regards the funding itself of schools and the suggestions of additional funding because it is a very complex figure, which does not hold up to scrutiny at times. So we have questioned more around those areas. But again I reiterate, as a Scrutiny Panel we deal with our Minister because that is what Scrutiny Panels are there for.

QUESTIONS

3. Written Questions

3.1 Deputy R.J. Ward of St. Helier of the Minister for Infrastructure regarding the travel on buses by carers with prams (WQ.428/2021):

Question

Will the Minister advise members what policy is applied to transport on LibertyBus by carers with young children in prams?

Revised Answer

The Government of Jersey does not have a specific policy in relation to travel on LibertyBus by carers with young children in prams. However, ensuring that such journeys are provided for is accommodated through the Government of Jersey's Bus Operator Contract.

Recognising national best practice, the Contract sets out in its Specification of Services that all vehicles operating public services are to be of low floor design and comply with the UK's Equality Act 2011 specification, incorporating previous UK's Disability Discrimination Act guidance, to include space for a minimum of one wheelchair. In addition, LibertyBus vehicles typically feature a multi-purpose layout in the forward part of the interior which, when the side-facing tip-up seats are set to their raised positions, provides a further area where passengers may stand and where unfolded pushchairs or prams can be placed.

In addition to this, LibertyBus have committed to ongoing staff training and development, with a strong focus on customer care, particularly vulnerable passengers including those of restricted mobility.

The [HCT Group Conditions of carriage](#) cover any bus service operated by its subsidiaries and includes under Section 5 "Carriage of wheelchairs, small prams and buggies" :-

Wheelchairs, disabled buggies, approved mobility scooters, small prams and unfolded buggies may only be carried on suitable low floor vehicles. All our buses are wheelchair accessible... Subject to space being available and the discretion of the driver, we will carry small prams and unfolded buggies on low floor buses within the designated area but only when it is not required by a passenger in a wheelchair or approved mobility scooter (passengers in wheelchairs have absolute priority by law). Prams and buggies must not block the aisle of the vehicle at any time.

When the bus is busy the driver may request that buggies are folded up to avoid obstructing the aisle.

3.2 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding air quality monitoring at Les Quennevais school (WQ.444/2021):

Question

Given the proximity of Les Quennevais School to the Airport and main road, and the requirement for classrooms to be ventilated during the Covid-19 pandemic, will the Minister state –

- (a) what air quality monitoring, if any, takes place at Les Quennevais School to measure emissions from nearby air traffic and motor vehicles; and
- (b) what monitoring, if any, of respiratory conditions amongst students and staff is undertaken at the school?

Answer

- (a) A nitrogen dioxide (NO₂) diffusion tube was sited at Les Quennevais school in the car park close to the entrance walkway on 28th September 2021. This will produce monthly NO₂ averages moving forward. Diffusion tubes do not provide peak concentrations, but rather cumulative data to give an indication of general air quality in the area and provide an opportunity to make comparisons across the year.

An Air sensa unit was sited at the rear of Les Quennevais school. It was sited in December 2020 and worked until it went off line in February 2021. The data collected over that time was not assessed or ratified by the supplier.

Diffusion tube data is collated and assessed at the end of each calendar year with an external report being produced and subsequently published on the gov.je website.

- (b) Monitoring of respiratory illness at school is not routinely conducted by the Government of Jersey.

3.3 Deputy S.M. Ahier of St. Helier of the Chair of the Privileges and Procedures Committee regarding the 2022 election (WQ.445/2021):

Question

In respect of the 2022 Election, will the Chair advise the Assembly –

- (a) where the Polling Stations will be located for St. Helier North and St. Helier Central Districts;
- (b) how the electorate in these Districts will be informed of the Polling Stations available to them;
- (c) when the electoral roll for these Districts will be available to election candidates ; and
- (d) how the boundary changes in these Districts will be communicated to the electorate?

Answer

The polling stations for the new St. Helier districts will be determined in the New Year, once the boundaries have been confirmed. It is possible that the polling stations used previously will no longer be in the best locations to maximise public engagement. The views of the Jersey Electoral Authority and St. Helier Parish officials will be sought before any decision is made.

A mail shot to all households across the Island is planned in early January by vote.je, explaining the key changes which will have come into effect once the new legislation is enacted. Further information will then be distributed to all households in early March as part of the electoral registration notice required under Article 7A of the Elections (Jersey) Law 2002. This will not only advise the electorate as to whether they are already registered to vote, but it will also provide information about registration for those eligible within the household who are not currently registered, explain how to apply for postal voting or how to access pre poll and will also confirm which polling station that the householders on the register can access on election day within their district.

Candidates may only access the electoral register in force for an election when they are formally declared as a candidate, so printed copies of the register will only be available for candidates from 18th May 2022. Before that date, copies of the electoral register, as at 1st September 2021, are available for inspection by the public during office hours at each Parish Hall or at the Jersey Library or Judicial Greffe.

3.4 Connétable of St. John of the Assistant Chief Minister regarding the Our Hospital project (WQ.446/2021):

Question

Further to [Written Question 381/2021](#), and subsequent unanswered e-mails, will the Assistant Chief Minister –

- (a) advise whether the final schedule of accommodation for the design of ‘Our Hospital’ is now available and if so, provide an answer to that question in full; and if not, commit to providing a complete answer when the schedule is available; and
- (b) state the square meterage allocated for growth and the square meterage for car parking, and if such an area identified for growth is used initially for another purpose, explain what will happen when growth space is then required?

Answer

(a) The Schedule of Accommodation is currently being finalised in preparation for the submission of the planning application. It is due to be submitted in November and will be available on the Our Hospital website at the same time as the Planning Submission. The square meterage for areas

referred to in WQ381 will then be available and it will be possible to provide the details requested by the Connétable.

The November 2021 Schedule of Accommodation will continue to evolve to reflect ongoing discussions with stakeholders, including clinicians.

(b) The area allocated for growth will be around 15% of the final total square meterage of the main building. Designs are still evolving and will need to reflect any planning decisions. The total area for car parking is currently approximately 16,000 square metres.

The design includes flexible internal spaces so that services can be reviewed as required or adjusted to meet patient demand or changes in medical practices in future as they arise.

3.5 Deputy I. Gardiner of St. Helier of the Minister for Home Affairs regarding E.U. nationals on ‘settled status’ (WQ.447/2021):

Question

Will the Minister provide up-to-date figures for the number of E.U. nationals who have been granted ‘settled status’ in the Island, providing the following information broken down by country of origin of applicant –

- (a) how many applications have been approved;
- (b) how many applications have been refused, and the reasons for such refusal; and
- (c) how many applications are still outstanding?

Answer

The first table below provides the total settlement scheme figures and the second table provides details of the highest 7 nationalities that have applied to the scheme, which make up 92% of the applications.

| | |
|--|--------------------|
| Total number of applications received (finalised) | 17363 (88%) |
| Total granted | 14798 |
| Total refused | 63 |
| Total withdrawn | 438 |
| Total pending | 1836 |
| Under review - duplicates | 30 |
| Unprocessed applications (late applications) | 198 (198) |

| | Applications | Granted | Refused | Pending | Withdrawn |
|-------------------|---------------------|----------------|----------------|----------------|------------------|
| Portuguese | 9824 | 8463 | 18 | 1059 | 152 |
| Polish | 3161 | 2740 | 18 | 306 | 77 |
| Romanian | 1759 | 1462 | 11 | 188 | 71 |
| French | 614 | 519 | 6 | 59 | 18 |

| | | | | | |
|------------------|-----|-----|---|----|----|
| Italian | 270 | 236 | 2 | 25 | 7 |
| Bulgarian | 212 | 144 | 1 | 43 | 18 |
| Latvian | 204 | 174 | 1 | 25 | 2 |

Of the applications that have been refused;

- One is due to having failed the criminality test
- The majority have been refused on the basis that they are not eligible under the residency criteria, for example having not lived in Jersey prior to 2021 or the period of residency was too long ago to qualify
- A small number are applications for Joining Family Members who fall outside the qualifying criteria

Of those pending, every applicant has been contacted by the settled status team who are now waiting for either evidence of residency or identity. Each one is now being contacted directly in order to finalise the application. There are 180 pending applications from children that are being prioritised.

3.6 Senator S.Y. Mézec of the Minister for the Environment regarding the use of gas in households (WQ.448/2021):

Question

Will the Minister advise whether records are maintained of the number of households that use gas for their home heating requirements; if so, will he state how many households in the Island do so and, of these, how many such households are in the social housing sector and how many are in the private rental sector?

Answer

Specific formal records regarding the number of households using gas for heating requirements (and the split of these across housings sectors) are not maintained.

However, the [Jersey Energy Trends Report](#) (page 11), published in 2019, notes that only 5% of all households in the Island use gas. Additionally, enquiries were made earlier this year with the social housing trusts. Across all the portfolios there are only 158 homes that still have gas. However, while a majority of these use gas for their heating, a small number only use it for hot water

The International Energy Group (parent company of Jersey Gas) have advised that there are less than 3,000 households with an Active Meter assigned to a Central Heating tariff where Gas consumption has been recorded in the last 12 months to 31st October 2021:

Please note the following caveats for the data provided

- Noted “household” in question has been interpreted as JG’s concept of “properties”
- A customer only using a hob on a central heating tariff after switching to electric / oil for central heating will be included in this number.

- Conversely, any customers on a standard tariff and not taking advantage of our economy 24 tariff will again not be included.
- Information on the split between social housing, private rental and privately owned is not maintained.

The Carbon Neutral Roadmap is currently under development and due to be published before the end of this year. It will outline carbon reduction policies. This follows on from the [Carbon Neutral Strategy](#), published in 2019, which committed the Government to a fair transition with the strategic principle of our carbon reduction policies not worsening the island's income inequality overall.

3.7 Senator S.Y. Mézec of the Minister for Housing and Communities regarding the Affordable Housing Gateway Band 5 waiting list (WQ.449/2021):

Question

Following the transfer of the administration of the Affordable Housing Gateway Band 5 waiting list to Andium Homes in July 2021, will the Minister advise –

- (a) how many former applicants have not re-applied to remain on this list; and
- (b) the current number of applications on this list, broken down by the number of bedrooms required?

Answer

(a) The records of 638 applicants were not transferred to Andium Homes because these applicants did not grant consent for their application details to be passed from Customer and Local Services to Andium Homes.

(b) [Affordable Housing Gateway Month End Statistics](#) stated that there was a total of 1,425 applicants on the Affordable Housing Gateway on 31st October 2021.

The number of applicants by bed size on 31st October 2021 was as follows:

- 1 bedroom - 175 applicants
- 2 bedroom - 527 applicants
- 3 bedroom - 661 applicants
- 4 bedroom - 61 applicants
- 5 bedroom - 1 applicant

Please note this data does not currently contain full details of accommodation bedsize requirements; and maybe subject to change following a comprehensive review and update of all applications early in 2022 which will collect this data alongside information regarding each applicant's financial means.

3.8 Deputy M. Tadier of St. Brelade of the Minister for Treasury and Resources regarding exempting Social Security contributions from tax (WQ.450/2021):

Question

Further to the response to [Written Question 414/2021](#), in which the Minister stated exempting Social Security contributions from tax would “materially reduce the States’ income” and that it could “cost many millions of pounds”, will the Minister provide the analysis on which these statements were made to show the precise financial impact of all employees’ contributions being made exempt from tax; and will she explain what consideration, if any, she gave to whether it would be morally right to introduce such a policy when stating she supports the existing policy?

Answer

No recent or comprehensive quantification of the costs treating Social Security contributions as a tax-deductible item exists. However it is self-evident that the impact upon tax receipts would be significant given the number of taxpayers with earnings on which they pay Social Security contributions. Arriving at an accurate estimate requires more complex and careful examination as there are a number of factors, which means that the benefit will be different for different taxpayers depending on their circumstances.

Nevertheless Officers’ “rough and ready” estimate suggests an amount in excess of £13 million, based upon the current estimate of islanders who do pay contributions and who also pay income tax. I am happy for officers to share the basis of that very broad estimate with the Deputy bilaterally where the complexities of arriving at better estimates can be explained.

Given the Government’s existing heavy work programme, I am reluctant at this time to commission a full analysis of the financial impact of changing the existing policy which I do support. Such a significant change of approach would self-evidently - cost many millions of pounds, which would put pressure across all public services, many of which are of significant benefit to low wage earners.

That said, in order to help Members better understand the potential financial impact of such a move, I have asked the Treasurer of the States, as Chair of the Income Forecasting Group, to commission further analysis as part of the preparation of the Spring 2022 income forecast. The additional analytical resources brought to bear at this time should assist in forecasting potential costs more accurately.

Policy changes of this type would be tested against Jersey’s long-term tax principles (page 120 of the current draft Government Plan). These expect changes, among other things, to be justifiable and fair – perhaps a reasonable proxy for “morally right”

It should be noted that employee contributions build eligibility and entitlement to a wide range of working age contributory benefits as well as the Social Security old age pension.

| Benefit | Payable when: |
|---------------------------------|---|
| Parental Allowance and Grant | You have a baby |
| Adoption Grant | You adopt a child |
| Short Term Incapacity Allowance | You’re signed off work with a medical certificate |

| | |
|--------------------------------|--|
| Long Term Incapacity Allowance | You have a long-term illness or disability |
| Home Carer's Allowance | You're looking after someone with a long-term illness or disability |
| Survivor's Allowance | You're husband / wife / civil partner dies |
| Survivor's Pension | Your husband / wife / civil partner dies and you have dependent children |
| Old age pension | You've reached pension age |
| Death Grant | Someone dies (to help with funeral costs) |
| Medical Benefit | Subsidised costs when you visit your GP |
| Pharmaceutical Benefit | You get a prescription from your GP |

It should also be remembered that some people work and pay employee contributions in Jersey for part of their working lives before moving to work and settle somewhere else. These people could benefit from the introduction of income tax relief whilst they live and work here, but they will not be Jersey residents later in life when their pensions would be subjected to Jersey income tax.

Finally, such a change might be considered regressive as many lower wage workers do not pay tax at all and that the benefit of tax relief would accrue only to those who earn enough to pay income tax. From one viewpoint, that might be considered unfair (though probably not fundamentally immoral) for an income-related levy.

3.9 Deputy M. Tadier of St. Brelade of the Minister for Treasury and Resources regarding exempting Social Security pensions from tax (WQ.451/2021):

Question

Further to the response to [Written Question 415/2021](#), in which it was stated that exempting Social Security pensions from tax could “materially reduce States’ income by many millions of pounds”, will the Minister provide the analysis on which the statement was based, including the precise financial impact of introducing such a policy; and will she explain what consideration, if any, she gave to whether it would be morally right to introduce such a policy when stating she supports the existing policy?

Answer

No recent or comprehensive quantification of the costs of exempting social-security pensions from tax exist and it would be technically very difficult an estimate to produce given the factors which need to be considered in such an analysis. That said, officers very “rough and ready” estimate would be that the cost would be in excess of £9 million. I am happy for officers to share the basis of that very broad estimate with the Deputy bilaterally where the complexities of arriving at better estimates can be explained.

Given the Government’s existing heavy work programme, I am reluctant at this time to commission an analysis of the financial impact of changing the existing policy which I do support.

That said, in order to help Members better understand the potential financial impact of such a move, I have asked the Treasurer of the States, as Chair of the Income Forecasting Group, to commission further analysis as part of the preparation of the Spring 2022 income forecast. The additional analytical resources brought to bear at that time should assist in forecasting potential costs.

Policy changes of this type would be tested against Jersey's long-term tax principles (page 120 of the current draft Government Plan). These expected changes, among other things, to be justifiable and fair – perhaps a reasonable proxy for “morally right”

A full States Old Age Pension is below the thresholds for paying income tax. It was estimated some time ago that around half of pensioners pay no income tax at all because their States Old-Age Pension, combined with any other income, remains below the income tax thresholds. The income tax threshold is £16,000 for year of assessment 2021, proposed to rise to £16,550. The States full rate Old Age Pension is £235.27 per week which equates to £12,234 for 52 weeks.

Higher income pensioners alone would benefit from such a change and it is on this basis that I would expect tax relief to cost many millions of pounds, putting pressure on public services, many of which are of significant benefit to lower-income pensioners.

Such a change would consequently be essentially regressive in nature which some might regard as not being fundamentally moral (or at least unfair) for an income tax regime.

3.10 Deputy R.J. Ward of St. Helier of the Minister for Children and Education regarding the free school meals pilot scheme (WQ.452/2021):

Question

Will the Minister provide an update on the progress of the free school meals pilot scheme, including any plans for the longer-term future of the project and advise whether or not it will be expanded to other primary schools?

Answer

COVID-19 related school closures and restrictions halted this work and prevented planned expansion. This resulted in a decision to extend the primary school meals pilot scheme until July 2022, in order to provide the Government with a full set of data as per the original plan.

Early in 2022 the pilot scheme will extend to another (still to be decided) primary school. Work is in progress to plan the fit out of servery areas in another six schools in readiness for a phased, contracted service rollout that is scheduled to commence in September 2022. A procurement strategy is being developed with the CYPES commissioning and SPPP teams to commence the process of finding a preferred supplier in time for the start of the September 2022 term.

The longer-term future of the project is to implement a fully serviced school food provision across the remaining Primary schools which are budgeted for in the Government plan. However, because of the size of the project, the food service model and conversations with the local market a phased roll out is the preferred option. Timescales for a fully integrated service across all CYPES primary schools will be developed once the contract is awarded.

CYPES continues to work in partnership with Public Health to ensure that the project is aligned with the strategy to Reduce Preventable Diseases in Jersey and the Whole School Food Programme.

3.11 Deputy R.J. Ward of St. Helier of the Minister for Economic Development, Tourism, Sport and Culture regarding live music venues (WQ.453/2021):

Question

Will the Minister advise what action, if any, is being taken to enable the development of existing live music venues, and the creation of new ones?

Answer

The provision of live music and entertainment venues is considered in the forthcoming Arts Strategy, which is in the final stages of development and scheduled for publication before the end of the year. The Arts Strategy discusses the lack of live music venues and proposes ways that this might be addressed.

In addition, the current plans for the Fort Regent redevelopment envisage a live music and performance venue.

3.11 Deputy R.J. Ward of St. Helier of the Chief Minister regarding registration of the Alliance Party (WQ.454/2021)

Question

In light of the formal registration of the Alliance Party, will the Chief Minister advise what consideration has been given to party membership when deciding the membership of policy boards, steering groups and other Government-formed cross-Assembly groups; whether party membership has been identified as a possible conflict of interest to membership of such groups and, if so, what Government policy is to address any such conflict?

Answer

All Government boards and groups are assembled with a view to secure a balanced and focused membership.

As the Deputy will be aware, whilst the Alliance Party has been registered, all Alliance Members are acting as Independent Members until the 2022 General Election. There have not therefore been any incidents whereby a possible conflict of interest has been identified.

3.12 Deputy J.M. Maçon of St. Saviour of the Minister for Home Affairs regarding Covid vaccination status on death certificates (WQ.455/2021):

Question

Will the Minister explain whether, at the time of death, a person's Covid vaccination status is recorded either on the death certificate or any other system; and if not, why not?

Answer

Deaths which occur in Jersey are registered according to provisions set out in the Marriage & Civil Status (Jersey) Law 2001. The required information recorded on a death registration (and therefore a death certificate) is prescribed in that law. Vaccination status is not prescribed as required information and is therefore not recorded on a death registration or death certificate.

An individual's vaccine status is held as part of their Primary Care records, although this data is not held centrally by Government.

3.13 Deputy J.M. Maçon of St. Saviour of the Minister for Health and Social Services regarding the Medicines and Healthcare Products Regulatory Agency's (M.H.R.A.) Yellow Card Scheme (WQ.456/2021)

Question

Will the Minister state whether the Department is able to analyse local trends in adverse drug reactions (A.D.R.s) to the Covid-19 vaccine by extracting Jersey-specific data from the Medicines and Healthcare Products Regulatory Agency's (M.H.R.A.) Yellow Card Scheme datasets; and if not, why not?

Answer

The system for collating reported events that may be related to a drug or vaccine is the yellow card system as discussed in response to WQ457/2021. This permits for a large data base and expert and credible analysis. As stated, that data applies to all vaccine recipients in the UK and Crown Dependencies.

3.14 Deputy J.M. Maçon of St. Saviour of the Minister for Health and Social Services regarding patients' Covid information (WQ.457/2021):

Question

Will the Minister advise –

- (a) what systems, if any, are in place in Jersey to record patients' adverse reactions, deaths or Covid-19 infection rates following any of the Covid-19 vaccinations; and, if no such systems are in place, provide an explanation as to why not; and
- (b) whether any section of his Department analyses morbidity and mortality trends in Jersey and, if so, are Covid-19 vaccinations included as part of this analysis?

Answer

- a) The Yellow Card scheme run by the Medicines and Healthcare products Regulatory Agency (MHRA) is the UK system for collecting and monitoring information on safety concerns such as suspected side effects or adverse incidents involving medicines and medical devices. The scheme relies on voluntary reporting by health professionals and the public, including patients, carers and parents. There is a dedicated Coronavirus Yellow Card reporting site:
www.Coronavirus-yellowcard.mhra.gov.uk

During the pandemic, all HCS staff were reminded about the Yellow Card system. They would also record any information on the internal Datix system. Information on the Yellow Card system is included on the patient information leaflet distributed at the time of vaccination. Details are also on the GOJ vaccination website at:

www.gov.je/Health/Coronavirus/Vaccine/Pages/COVID19VaccineInformation.aspx#anchor-3

The MHRA receives all reported events that may be related to medicines including vaccines from a population of some 70 million people. It analyses these events to determine if they are in fact related to the drug in question or not, determine the frequency of any related events and pursue any mechanisms. It then reports the perceived side effects. The picture drawn by this data both in terms of type and frequency of adverse event is applicable to our population. We cannot extract Jersey-only data from this, but have access to robustly collected and analysed data that is applicable to our population. Such data is more meaningful than data only derived from only a small cohort and our ability to analyse a causative link is much more limited than that available to the MHRA. When recording COVID infection rates we also record the COVID vaccination status of an individual.

- b) Mortality and morbidity trends are analysed by the Public Health Intelligence Team, part of the Public Health Directorate within Strategic Policy, Performance and Population (SPPP). An annual mortality report is published by the team using data from death registrations and statistical coding conducted by the Office for National Statistics (ONS). The latest report, for 2020 deaths, was published in September and is available on gov.je. Included in the latest report is analysis of COVID-19 deaths and deaths of those who had previously tested positive.

There have been no deaths registered in Jersey to date where COVID-19 vaccination was listed as a cause of death on the death certificate.

Morbidity trends are analysed as part of the [multi-morbidity report](#), published every two years, by the Public Health Intelligence Team. This uses data collected from GPs as part of the Jersey Quality Improvement Framework (JQIF) for which GP practices are incentivised to record accurate information. Vaccine status is not part of the JQIF indicator set and therefore not included within this analysis.

The next iteration of this report will be published in 2022.

3.15 Connétable of St. Lawrence of the Minister for Health and Social Services regarding the Emergency Department not giving advice on the telephone (WQ.458/2021):

Question

Will the Minister explain any reasons, including legal ones, that prevent the staff of the Emergency Department from giving advice to the public when they telephone the Department?

Answer

Staff in the Emergency Department (ED) consistently inform the general public that when concerned about their health they should visit their GP, call an ambulance for support or visit the Emergency Department.

The most appropriate way to ensure that staff undertake an accurate assessment and produce safe clinical advice in an emergency is by seeing the patient.

ED telephone advice is not common practice across the NHS given the requirements to safely deliver this model of care (recording facilities, telephone triage training, defined clinical pathways).

3.16 Deputy L.M.C. Doublet of St. Saviour of the Chief Minister regarding outdoor wedding ceremonies (WQ.459/2021):

Question

Will the Chief Minister state what progress, if any, has been made in pre-registering sites on publicly-owned land that members of the public can access at low cost for the purposes of outdoor wedding ceremonies; and will he also provide the following information in table form –

- (a) a list of all sites currently registered;
- (b) a list of sites planned to be registered;
- (c) the expected cost of using each site; and
- (d) the anticipated date by which each of the sites will be made available as a pre-registered option?

Answer

- a) no such sites are currently registered
- b) The piece of work referenced is on hold and therefore no sites have been identified to date for registration;
- c) no such sites are currently registered
- d) A date has not yet been identified by which this piece of work will resume and therefore a timeline for this piece of work is unavailable

The question relates to a piece of work intended to be undertaken by the Office of the Superintendent Registrar to pre-approve sites for outdoor ceremonies. Plans in relation to pre-registering sites for outdoor wedding ceremonies on publicly-owned land were interrupted by the pandemic response and have not yet been restarted due to continued pandemic workload and resourcing requirements. One off licences are currently available in consultation with the Superintendent Registrar for couples desiring an outdoor wedding ceremony with a nominal licencing fee of £125.

3.17 Deputy L.M.C. Doublet of St. Saviour of the Minister for Treasury and Resources regarding Child Tax Allowance between parents (WQ.460/2021):

Question

Will the Minister provide details of the policies on Child Tax Allowance and Childcare Tax Allowance in terms of how this is split between two parents (including whether this depends on the type of relationship, such as married, unmarried, same sex or mixed sex) and stating what permissions are required in each case and from which parent?

Answer

The Income Tax (Jersey) Law 1961 (ITL) provides the following allowances and tax reliefs to taxpayers with children:

- Article 95, ITL provides an allowance of £3,060 for each qualifying child. This allowance is normally referred to as the “Child Allowance”.
- Article 98A, ITL provides a single allowance of £4,590 to an individual with a qualifying child resident in the household. This allowance is not available to an individual with a spouse or civil partner unless the spouse or civil partner is incapacitated or the couple are separated. This allowance is referred to in the legislation as the “Additional Allowance in Respect of Children”.
- Article 92B, ITL provides relief for certain childcare costs incurred by taxpayers with children.

The benefits of Articles 95, 98A and 92B, ITL, are available only to the approximately 90% of taxpayers who receive Marginal Relief.

Article 95, ITL

This allowance may be claimed by an individual taxpayer with a qualifying child irrespective of whether the individual is married (whether or not in a same sex relationship), in a civil partnership, cohabiting or single.

Parents who are married or in a civil partnership are considered as having an equal claim to the allowance though, under married-couples taxation, it is unnecessary to apportion the allowance. If parents separate or divorce, the allowance claim is normally covered in the separation agreement. If it is not covered in an agreement, parents are asked to provide Revenue Jersey with a jointly-signed statement setting out how it should be divided. In rare circumstances where the parents cannot agree a division, Revenue Jersey will seek to apportion the allowance according to each individual’s contribution to the child’s welfare.

Under Independent Taxation, it is currently proposed that the child allowance will be apportioned 50/50 unless the married/civil partnership couple make a joint request for a different apportionment.

Where parents are unmarried or not in a civil partnership but live together, Revenue Jersey normally treat the mother as having the primary claim but the mother or father (as the case may be) may relinquish all or part of the allowance to his or her partner.

Article 98A, ITL

This allowance is generally only available to individuals who are either single or co-habiting, but may also be claimed by an individual with a spouse or civil partner who is incapacitated in the assessment year or the couple are separated and the claimant is not wholly maintaining his or her wife or civil partner.

Where more than one individual is entitled to relief under this Article for the same child, the allowance is apportioned by agreement. If no agreement can be reached, the allowance will be apportioned by Revenue Jersey by reference to the periods during which the child was resident with each individual in the year of assessment.

Article 92B, ITL

An individual entitled to claim Child Allowance (Article 95, ITL) for a child, may claim tax relief for qualifying childcare costs paid in an assessment year in respect of that child. A claim for tax relief may be made irrespective of whether the individual is married, in a civil partnership, cohabiting or single.

Where for a year of assessment, two or more individuals are entitled to relief for costs – perhaps because childcare costs are paid from a joint bank account, Revenue Jersey will apportion tax relief by agreement with the couple. If no agreement can be reached, Revenue Jersey will normally apportion 50/50.

Appealing a Decision

Where the apportionment of an allowance or giving of a tax relief results in a taxpayer being aggrieved by a tax decision, Article 27, ITL, allows the decision to be appealed to the Commissioners of Appeal.

3.18 Deputy I. Gardiner of St. Helier of the Assistant Chief Minister regarding the Our Hospital project and costs (WQ.461/2021):

Question

Will the Assistant Chief Minister provide the Assembly with details of –

- (a) the total expenditure on the ‘Our Hospital’ project from 17th November 2020, when Overdale was confirmed as the preferred hospital site, through to 1st November 2021;
- (b) any outstanding liabilities anticipated as remaining by 31st December 2021;
- (c) the precise breakdown of spending by each head of expenditure within the project;
- (d) the distinction in expenditure between Government of Jersey costs (including specific costs such as staffing) and external stakeholders; and
- (e) any contracts and payments above £100,000 in total during this period, including a description of the purpose of the engagement, the final total cost of the engagement (showing any difference between the Outline Business Case and the actual expenditure) and the final expected date of the engagement (including any over-runs or additions to the original contract)?

Answer

- (a) the total expenditure on the ‘Our Hospital’ project from 17th November 2020 through to 1st November 2021**

The total cost during this period was £44.04m.

Please note that the figure requested spans two reporting years, 2020 and 2021, as per the defined period of 17th November 2020 through to 1st November 2021.

Suppliers are paid monthly for their services and therefore the costs in November 2020 have been adjusted by only including 13 of 30 days of services provided in this month.

(b) any outstanding liabilities anticipated as remaining by 31st December 2021

Outstanding liabilities are defined as committed spend on 31st December 2021. The analysis includes suppliers and consultants work carried out during December 2021 that will be paid in subsequent months. Additionally, the Design and Delivery Partner Pre-Construction Services Agreement (PCSA) and Les Quennevais Enabling Works values includes a provision for work that was planned to be carried out during 2021 but has yet to be agreed as part of the monthly progress valuations.

The estimated year end liabilities for the project are as follows:

| | |
|----------------------------------|---------------|
| GOJ Team cost | £0.48m |
| Design and Delivery Partner PCSA | £5.64m |
| Les Quennevais Enabling Works | £0.56m |
| | <u>£6.68m</u> |

(c) the precise breakdown of spending by each head of expenditure within the project

Spending by Head of Expenditure during the period 17th November 2020 to 1st November 2021 was:

| Head of Expenditure | Value |
|--|----------------|
| Head of Expenditure - J00GP20PF4 - Our Hospital: | £2.47m |
| Head of Expenditure - J00MP21007 - Our Hospital (Phase Two): | £41.57m |
| Grand Total | £44.04m |

These figures span two reporting years, 2020 and 2021, and the defined period of 17th November 2020 through to 1st November 2021.

(d) the distinction in expenditure between Government of Jersey costs (including specific costs such as staffing) and external stakeholders

| Category | Value '000 000 |
|----------------|-------------------|
| Staff Salaries | £0.45 |

| | |
|--------------------------------------|---------------|
| Stamp Duty and planning fees | £0.60 |
| Total Internal GOJ costs | £1.05 |
| Communication and PR | £0.07 |
| Professional fees | £3.98 |
| Design and Delivery Partner PCSA | £18.39 |
| Le Quennevais Enabling works | £1.28 |
| Site Acquisitions and Heads of Terms | £19.11 |
| Project office costs | £0.16 |
| Total External Costs | £42.99 |
| Grand total | £44.04 |

- (e) any contracts and payments above £100,000 in total during this period, including a description of the purpose of the engagement, the final total cost of the engagement (showing any difference between the Outline Business Case and the actual expenditure) and the final expected date of the engagement (including any over-runs or additions to the original contract)?

The Outline Business Case provides high-level cost categories for annual capital expenditure, for example “GOJ team cost” or Client Contingency. These categories do not always align with the spend on specific contracts, which the question asks for.

The table below outlines contracts over £100,000 that also will include payments above the same amount. The stated actual expenditure is captured during the period of 17th November 2020 to 1st November 2021. The contracts have been summarised into high-level categories to protect the commercial sensitivity.

The professional fees in the table is less than stated in the answer to part (d). The reason is that question (e) asks for contracts and payments above £100,000. It therefore excludes payments made below this threshold.

High-level cost analysis

| Cost Category | Total Contract Value | Actual Cost | OBC Value ¹ |
|------------------------------|----------------------|------------------|------------------------|
| Project management | £ 2.89m | £ 1.63 m | |
| Professional fees | £ 4.72 m | £ 1.93 m | |
| Hospital Design Fees | £ 29.74 m | £ 18.39 m | £22.55 m |
| Le Quennevais Enabling works | | £ 1.28 m | £1.63 m |
| Total | £37.34 m | £ 23.23 m | |

The cost categories consist of:

¹ The OBC values provided have been adjusted to include 44 days of OBC budget in 2020 and 304 days of OBC budget in the 2021 period to align the value with the period of 17th November 2020 to 1st November 2021. The OBC has a total provision of £14.6m Le Quennevais Enabling works for the duration of the project and a budget of £1.63m, was brought forward from 2022 when this workstream was expedited. Note that this figure also has been adjusted to fit the queried time period.

- Project Management – covers a total of two contracts for suppliers providing strategic and operational project management.
- Professional Fees - covers four supplier contracts providing services from business case development, site acquisition, clinical design to Design Quality Assurance
- Hospital design fees and Les Quennevais Decant works are provided by one supplier and the contract value of £29.74m covers both categories.

As can be seen from the table, there are no over-runs as defined by costs exceeding the contracted value.

3.19 Deputy I. Gardiner of St. Helier of the Minister for Health and Social Services regarding the Jersey Care Model costs (WQ.462/2021):

Question

Will the Minister provide details of –

- (f) the total spending on the Jersey Care Model from 3rd November 2020, when the Care Model was approved, through to 1st November 2021;
- (g) any outstanding liabilities anticipated as remaining by 31st December 2021;
- (h) the precise breakdown in spending by each head of expenditure;
- (i) the distinction between Government of Jersey costs (including specific costs such as staffing) and external stakeholders;
- (j) all contracts and payments above £100,000 in total during this period, including a description of the purpose of the engagement, the final total cost of the engagement (showing any difference between the Outline Business Case and the actual expenditure) and the final expected date of the engagement (including any over-runs or additions to the original contract); and
- (k) the initial expected outcomes for the Jersey Care Model development and how they differ, if at all, from the actual outcomes in 2021; how has this been measured and tracked and what, if anything, will be done differently as a result?

Answer

- (a) There was no spend on the Jersey Care Model in 2020 as funding was only agreed as part of the Government Plan 2021-24 which started on 1st January 2021. The total spend on the Jersey Care Model from 1st January 2021 to the 31st October is £3.89m.
- (b) An additional £700,000 of spend is expected from November to the 31st December 2021. A total spend for the year of £4.6m is forecast.
- (c) All expenditure is contained within the Head of Expenditure – JCM for the Department for Health and Community Services

Table 1:

| Head of Expenditure | Total Spend £000 |
|--|---------------------|
| Health and Community Services – Jersey Care Model | 3,890 |

(d) Table 2 shows the costs for external stakeholders.

Table 2:

| External Partner | Description of engagement | Contract start | Contract end | Total cost 2021 £000 |
|------------------------------|---|----------------|--------------|-------------------------|
| Family Nursing and Home Care | Night Nursing Service to support JDOC & Ambulance reducing unnecessary overnight admissions | April | December | 244 |
| Jersey Doctors On Call | Night Service for GP's reducing unnecessary overnight admissions | January | December | 300 |

| | | | | |
|---------|--|---------|----------|-----|
| Hospice | To develop a community partnership to meet the growing need for end of life care | January | December | 300 |
|---------|--|---------|----------|-----|

(e) Contracts and payments over £100,000 for 2021

Table 3:

| External Partner | Description of engagement | Contract start | Contract end | Total cost 2021 £000 |
|------------------------------|---|----------------|--------------|----------------------|
| Family Nursing and Home Care | Night Nursing Service to support JDOC & Ambulance reducing unnecessary overnight admissions | April | December | 244 |
| Jersey Doctors On Call | Night Service for GP's reducing unnecessary overnight admissions | January | December | 300 |
| Hospice | To develop a community partnership to meet the growing need for end of life care | January | December | 300 |

The Outline Business Case did not specify specific contracts or services to be delivered by external partners nor did it specify a financial value for external partners. The OBC outlined the key principles and objectives, for example the establishment of intermediate care services and community services that would support Islanders at home and avoid hospital admissions. The above contracts are in accordance with these principles and objectives.

(f) The initial expected outcomes for the Jersey Care Model

Tranche 1 of the programme is focussed on establishing the programme and setting the foundations for design and delivery of tranche 2 items. The table below states the delivery items from the business case.

Business Case Tranche 1:

| Tranche 1 (2021) |
|--|
| <ul style="list-style-type: none"> • Detailed planning – assessment and modelling of need including supporting policy review • Foundations – establish the supports for the workforce to be successful (e.g. public health function, digital) • Acute – driving efficiencies as a part of GoJ requirements, best practice and Our Hospital build • Community/Intermediate Care – focus improving health & social care pathways through an enhanced single point of access and use of Tele-care • Workforce – creation of an island wide workforce plan to support implementation of system wide changes in tranche 2 and beyond • Communications – establishment of public, patient and wider stakeholder groups to inform design and delivery |

The list below provides the items that have been achieved or will be completed in 2021 in line with the objectives set out in the OBC.

The tranche 1 deliverables have been achieved and further detail of each can be found below.

Foundations created in 2021 to enable service re-design from 2022:

Strategies

- communication strategy
- co-designed commissioning strategy
- co-designed workforce strategy
- co-designed oral health strategy (to be finalised in Q2 2022)
- Acute Services Strategy Review
- Nutrition and Dietetics service strategy including Bariatric pathways and services
- Intermediate care strategy

Pathways Design

- co-designed end of life pathways and new partnership forum
- health and care pathway design specification for procurement
- Hospital discharge support specification completed
- working with general practice to design better primary/community services

Programme Set up

- Programme team
- Co-designed governance structure
- Governance group/board recruitment

Public Health

- Increased capacity in Public Health
- Public Health inclusion in JCM Governance

Service changes or new services delivered in 2021

Overnight Community Care

- Enhancements to overnight care in the community with JDOC and nursing cover

Intermediate Care

- Telecare
- my mHealth (digital project), digital support for managing long-term conditions
- HCS24, a clinically led, multidisciplinary referral hub to coordinate and improve patient flow between hospital and community
- Occupational Therapy, continued development of the reablement and support services
- Physiotherapy for in and out of hospital services
- Intermediate Mental Health Care: enhanced Home Treatment service for out of hospital services

As part of Tranche 1, specific operational metrics to track the impact of service delivery changes have been identified and will be tracked throughout the programme. In addition, each new service or service changes will need to include specific operational metrics to enable the monitoring and tracking of short-, medium- and long-term performance.

3.20 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding Income Support overpayments (WQ.463/2021):

Question

Will the Minister confirm whether or not the Department has adopted a policy whereby all overpayments of Income Support will be recovered no matter who was responsible for the overpayment; and, if so, will she inform members on what basis (including any Laws or Regulations) this policy has been adopted, particularly for instances in which the overpayment was caused by the Department itself?

Answer

Under Article 13 of the Income Support (Jersey) Law 2007 the Minister may recover any award of Income Support that was not properly payable. This part of the Income Support Law has been in place since the inception of the scheme. This power is formally delegated to officers of Customer and Local Services, who act on the Minister's behalf and under guidance approved by her for the administration of the Income Support benefit.

It is essential for the fairness of the tax-funded benefit system that households are asked to repay benefit in situations where they are paid more than they are entitled to. This is the Minister's policy and so officers of Customer and Local Services will seek to recover all overpayments of Income Support.

When any overpayment recovery is made against an Income Support claim, it is because a household has had more money than they are entitled to and the money needs to be paid back. This is no different in cases where the overpayment is caused by the actions of the claimant, or by an administrative error of the Department. In both situations, the household has received money in excess of its entitlement.

The income support scheme provides payments in advance to low income families. This ensures that vulnerable households are not left without funds to support their basic needs immediately following a drop in income. A system that makes payments in advance will always require adjustments where household income has increased after a payment has been made.

Each case of overpayment will be considered individually by an officer. They will set a repayment level that recognises the household's ability to repay. This process will take into account a household's current income and what is known about any additional costs they face.

Where a benefit overpayment is the result of fraud, the Department will always consider a criminal prosecution.

3.21 Deputy S. Ahier of St. Helier of the Minister for Treasury and Resources regarding the increase in the Social Security (Reserve) Fund (WQ.464/2021):

Question

Will the Minister explain the increase in the Social Security (Reserve) Fund (of approximately £530 million) over the last year, and advise why the predictions made for the Fund's performance in the 2021 Government Plan were substantially lower than this figure?

Answer

The change in value of the Social Security Reserve Fund over the last 12 months is as follows:

End October 2020 £ 1,891,839,077
End October 2021 £ 2,282,675,167 (unaudited)

This is an increase of £390,836,090, based on the performance of the investments in the fund.

Forecasts for investment fund balances are prepared relatively early in the Government Plan (“the Plan”) process and are based on actual investment results to the end of the second quarter, projected forward to the end of the year. At the time of preparing the Plan for 2021 there was considerable market uncertainty regarding the long-term impact of COVID-19 on financial markets, investment returns and the required level of drawing from the Social Security Reserve Fund (“the Fund”).

Therefore, a conservative approach was taken to avoid overstating future balances, particularly given the Fund’s greater exposure to more volatile asset classes such as equities. A loss of c.5% (approximately £100m) was projected for 2020 and is reflected in the forecasts in the 2021 Plan. However, by the end of 2020 the investment portfolio had not only fully recovered the initial COVID related losses but had also added a further £165m in value. These improved investment returns combined with lower than anticipated withdrawals from the Fund increased the 2020 year-end value by approximately £360million. At this stage it was too late to amend the forecasts contained within the, by then, approved 2021 Plan.

The 2022 Government Plan includes an updated opening balance based on the Q2 2021 position, and refreshed investment return assumptions based on the latest information available.

3.22 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the Health Access Scheme (WQ.465/2021):

Question

Will the Minister advise what measures, if any, are under consideration to extend the Health Access Scheme to other socially or clinically vulnerable groups of patients beyond those already included; and if this is not currently under consideration, will she explain why?

Answer

The Health Access Scheme was introduced in December 2020 following commitment from the Council of Ministers in the Common Strategic Policy 2018-2022 to improve access to primary care and a further commitment to support financially vulnerable people in the 2020 Government plan.

The Scheme aims to reduce the fees paid for general practice services. Under contract, General Practices have agreed to reduce charges for eligible people – for example adults pay £12 for a surgery consultation and child consultations are free of charge.

Members of Income Support households and Pension Plus recipients totalling 11,000 are captured on the Health Access Scheme. An assessment of the scheme following its first year of operation is underway and with the support of General Practice this assessment will include consideration of options to expand or develop the scheme in respect of the services offered and the groups of people included.

3.23 Deputy L.M.C. Doublet of St. Saviour of the Chief Minister regarding extending or ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’) to Jersey (WQ.466/2021):

Question

With regard to extending or ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’) to Jersey, will the Chief Minister provide members with the following information in table format outlining –

- (a) what work, if any, is underway on existing policy and / or legislation to achieve this;
- (b) what areas of new policy and / or legislation it is considered might need to be implemented;
- (c) which Minister has responsibility for oversight of each such area of policy or legislation;
- (d) what the intended outcomes are or the impact for each area is; and
- (e) what target dates have been identified for the delivery of any work in these areas?

Answer

- (a) Forthcoming legislation to address domestic abuse and crimes of prejudice, specifically where such prejudice is based on the sex of the victim, will move Jersey towards compliance with the Istanbul Convention.
- (b) Work has not been carried out on a full compliance gap analysis as the UK has not yet ratified the Istanbul Convention. This means that Jersey is not currently in a position to seek extension.
- (c) The work primarily falls within the ambit of the Minister for Home Affairs, as it mainly concerns the response of the justice system to such violence.
- (d) The intended outcome is that the criminal justice system should properly recognise the physical, sexual, psychological, and economic harms caused by domestic abuse and coercive and controlling behaviour by identifying that behaviour as criminal. Also that crimes of prejudice should be recognised by the justice system and treated with the severity that they deserve.
- (e) At present, it is intended that legislation to address both domestic abuse crimes motivated by prejudice should be debated before the end of this Assembly.

3.24 Deputy M.R. Higgins of St. Helier of the Chair of the States Employment Board regarding investigations into civil servants over the last five years (WQ.467/2021):

Question

Will the Chair advise members of the number of senior and middle grade civil servants who have, in each of the last five years –

- (a) been investigated for breaching the terms of their contract of employment;
- (b) been investigated for breaching the code of conduct;
- (c) been found guilty or innocent of any such breach (in either case);
- (d) been disciplined for such breaches, stating the nature of the sanctions imposed in each case (e.g. docked pay, moved to another position or had their contract of employment terminated);
or
- (e) been allowed to resign from their positions rather than face disciplinary hearings for their actions;

and, in the case of Parts (d) and (e), will he further state whether anyone who left States employment as a result of a breach, or who was allowed to resign, received an enhanced severance package and was subject to a compromise or non-disclosure agreement?

Answer

- a. For the purposes of this part of the question, we have defined ‘breaching terms of their contract of employment’ to be a matter of either Probation² or Capability. Those so defined will therefore not be investigated but will be subject to performance improvement plans.

| Year | Probation | Capability |
|--------------|------------------|-------------------|
| 2021 | <5 | 0 |
| 2020 | 0 | <5 |
| 2019 | <5 | <5 |
| 2018 | <5 | <5 |
| 2017 | 0 | 5 |
| Total | 6 | 12 |

- b. For the purposes of this part of the question, we have defined ‘breaching a term of the code of conduct’ to be Bullying and Harassment, Disciplinary and Grievance. Some form of investigation / fact-find will take place for any alleged breach of the Code of Conduct.

| Year | Bullying & Harassment ('B&H') | Disciplinary | Grievance |
|--------------|--|---------------------|------------------|
| 2021 | <5 | 16 | 9 |
| 2020 | 9 | 14 | <5 |
| 2019 | 5 | 19 | <5 |
| 2018 | <5 | 15 | 7 |
| 2017 | <5 | 15 | <5 |
| Total | 25 | 79 | 23 |

² Probation for this purpose means someone who has started a new role and they have not been able to demonstrate skills, knowledge, capability, experience or values and behaviours during the probation period. The probation is managed with the support of a case manager.

- c. Those upheld include sanctions of informal, formal or final formal warnings. Within policy we are unable to reduce pay with the exception of Police Officers.

| 2021 | Total | Upheld | Not upheld | Pending |
|--------------|--------------|---------------|-------------------|----------------|
| Capability | 0 | | | |
| Probation | <5 | | <5 | <5 |
| B&H | <5 | | <5 | <5 |
| Disciplinary | 16 | <5 | 9 | <5 |
| Grievance | 9 | <5 | <5 | 5 |

| 2020 | Total | Upheld | Not upheld |
|--------------|--------------|---------------|-------------------|
| Capability | <5 | <5 | |
| Probation | 0 | | |
| B&H | 9 | <5 | 5 |
| Disciplinary | 14 | 7 | 7 |
| Grievance | <5 | <5 | <5 |

| 2019 | Total | Upheld | Not upheld |
|--------------|--------------|---------------|-------------------|
| Capability | <5 | | <5 |
| Probation | <5 | <5 | |
| B&H | 5 | <5 | <5 |
| Disciplinary | 19 | 12 | 7 |
| Grievance | <5 | | <5 |

| 2018 | Total | Upheld | Not upheld |
|-------------|--------------|---------------|-------------------|
| Capability | <5 | | <5 |
| Probation | <5 | <5 | <5 |

| | | | |
|--------------|----|----|----|
| B&H | <5 | <5 | <5 |
| Disciplinary | 15 | 10 | 5 |
| Grievance | 7 | <5 | 5 |

| 2017 | Total | Upheld | Not upheld |
|--------------|--------------|---------------|-------------------|
| Capability | 5 | <5 | <5 |
| Probation | 0 | | |
| B&H | <5 | <5 | <5 |
| Disciplinary | 15 | <5 | 12 |
| Grievance | <5 | | <5 |

d. Officers dismissed

| Year | Dismissed |
|-------------|------------------|
| 2021 | <5 |
| 2020 | <5 |
| 2019 | <5 |
| 2018 | 0 |
| 2017 | 0 |

e. Resigned prior to disciplinary action

| Year | Resigned |
|-------------|-----------------|
| 2021 | <5 |
| 2020 | <5 |
| 2019 | 0 |
| 2018 | <5 |
| 2017 | <5 |

'in the case of Parts (d) and (e), will he further state whether anyone who left States employment as a result of a breach, or who was allowed to resign, received an enhanced severance package and was subject to a compromise or non-disclosure agreement?'

Less than 5 employees allowed to resign were subject to a compromise agreement³.

3.25 Deputy M.R. Higgins of St. Helier of the Chair of the States Employment Board regarding disciplining of civil or public servants following the successful legal action of Mr. Amar Alwitry (WQ.468/2021):

Question

Further to [Oral Question 214/2021](#) regarding the amount of damages paid to Mr. Amar Alwitry following his successful legal action against the States Employment Board for an unlawful breach of contract, will the Chair advise members whether any civil or public servant has been disciplined, or held to account in any way, either for the actions that led to the aforementioned unlawful breach of contract or for pursuing the action which has resulted in considerable cost to the taxpayer; and if not, why not?

Answer

The answer is no. As regards the dismissal, public servants acted in line with policy and advice at the time and no disciplinary action was taken against any of the officers involved in the dismissal of Mr Alwitry. Officers acted in good faith as found by the Royal Court : *"We have considerable sympathy with the position of the hospital management **who we find were acting in good faith and motivated by the best long-term interest of the General Hospital** and we further find that its concerns over the conduct of Mr Alwitry were genuinely held."*

Furthermore, no such discipline has been taken in respect of decisions taken during the course of court proceedings. Litigation is unpredictable and it is unreasonable to suggest any officer should face disciplinary action because the outcome is not the one desired. The States Employment Board acted on advice and was guided by local and UK precedent. Furthermore, it is worth noting that Mr Alwitry was not successful on several aspects of his claim (whistleblowing claims, defamation, tortious conspiracy, exemplary damages) and his total claimed losses were excessive. There was a strong public interest in defending this case and the amounts claimed.

3.26 Deputy M.R. Higgins of St. Helier of the Chair of the States Employment Board regarding civil service compromise agreements (WQ.469/2021):

Question

Will the Chair advise members of the number of compromise agreements entered into with civil servants in each of the last 5 years, setting out –

- (a) the number that resulted in some form of enhanced payment;
- (b) the total value of these compromise agreements in each year; and
- (c) the number of these agreements that contained non-disclosure clauses;

³ The figure of less than five has been used in this answer for reasons of data protection.

and will the Chair also provide, for the same time period, details of any out-of-court settlements entered into with former States employees, together with the amounts concerned?

Answer

a), b) & c)

| Year | Number of Agreements | Enhanced Payment | Total Value | Non-disclosure |
|------|----------------------|------------------|---------------|----------------|
| 2021 | 19 | 0 | £531,433.68 | 19 |
| 2020 | 18 | 0 | £808,173 | 18 |
| 2019 | 14 | 0 | £308,777 | 14 |
| 2018 | 28 | 0 | £1,484,808.52 | 28 |
| 2017 | 6 | 0 | £247,368.42 | 6 |

D)

All of the above are out-of-court settlements, which include settled Jersey Employment and Discrimination Claims and matters requiring legal certificates to protect the Government of Jersey from any future claim, e.g., pay in lieu of notice only.

4. Oral Questions

The Bailiff:

That brings the time allocated for questions to the chair to an end. We move back to the Order Paper. Answers to written questions have been lodged, as Members will be aware, so we come now to Oral Questions.

4.1 Deputy M.R. Higgins of St. Helier of the H.M. Attorney General regarding civil servants not applying the law in areas for which they are responsible (OQ.241/2021):

In cases when a civil or public servant is found to have knowingly or deliberately not applied the law in areas for which they are responsible, is the individual liable to be found guilty of a criminal offence and, if not, will H.M. Attorney General explain how the individual can be held accountable for their actions in such cases?

Mr. M. Jowitt., H.M. Solicitor General (*rapporteur*):

The Deputy’s question asks specifically about what lawyers call misfeasance or nonfeasance in public office. The offence which exists in our law that covers that is misconduct in a public office. It is committed where a public officer, who is acting as such, either wilfully neglects to perform his duty or wilfully misconducts himself in the exercise of that duty in either case without reasonable excuse or justification and does so to such a degree as to amount to an abuse of the public’s trust in the officeholder. Whether, in any given case, that offence is made out would be a matter for the facts of each individual case. Misfeasance is also a civil wrong. In other words, if someone, a member of the public, for example, suffers loss or damage as a consequence of a public officeholder’s misfeasance it is open to them to sue to recover damages. Outside narrow criminal and civil law

considerations there are administrative review options available. For example, an aggrieved person can complain to the States of Jersey Complaints Board under the Administrative Decisions Law. The board cannot overturn a decision but it can invite the Minister to reconsider a decision that has been taken. Another review option would be to apply for judicial review of a public law decision. Finally, if a civil or public servant is found to have knowingly or deliberately not applied the law in areas for which they have responsibility it may well be that that would amount to a breach of the code of conduct for States employees and that could, as a consequence, give rise to disciplinary proceedings.

4.1.1 Deputy M.R. Higgins:

Could the Attorney General say then in which case who would take this, for example, to the police if it was being pursued as a criminal matter because obviously anyone going for judicial review is going to be incurring great cost to themselves. Secondly, if the Complaints Board cannot do anything about it then surely a criminal case should be lodged? Who would bring that action? Would it be your office or would it be members of the public or States Members, or who?

The Solicitor General:

Any member of the public can report to the police the suspicion that someone has committed an offence, whether that is misconduct in a public office or any other form of offence. It would then be for the police to investigate and ultimately for the Attorney General to decide whether the prosecutor's test was met. It is not right to say that if a Complaints Board application is successful, in the sense that the Jersey Complaints Board consider that there has been misfeasance, it does not follow automatically that that would give rise to a prosecution because the test for whether or not a prosecution lies is a different creature entirely. I hope that answers the supplementary question.

4.2 Senator K.L. Moore of the H.M. Attorney General regarding planning applications and the Island Plan (OQ.238/2021):

Will the Solicitor General advise whether, under Planning Law, a planning application submitted during the life of an Island Plan can be considered in relation to anything other than the Island Plan under which the application was submitted?

The Solicitor General (*rapporteur*):

Yes, planning applications fall to be considered in light of the Island Plan which is current at the time that the application is determined - and I stress determined. Article 19 of the Planning and Building Law provides that, and I quote: "In general terms permission shall be granted if the development proposed in the application is in accordance with the Island Plan." Article 1 of the same law then defines the Island Plan as, and I quote: "The Island Plan approved for the time being by the States." At the moment planning applications fall to be determined in light of the 2011 Island Plan as amended in 2014. Although, and this is a caveat, Article 19 provides that in general planning permission shall be granted if the proposed development is in accordance with the Island Plan. It also provides at paragraph 3 that permission may still be granted where the proposed development is inconsistent with the Island Plan if the decisionmaker is nonetheless satisfied that there is "sufficient justification for doing so". The other exception is Article 12 where the Minister decides to hold a public inquiry and he may do so where a planning application is substantially inconsistent with an Island Plan. So a planning application that falls to be determined during the life of an Island Plan can be considered in relation to things which are either in addition to the Island Plan or where the proposal is not consistent with the present plan. Whether or not those other factors provide sufficient justification to grant permission, notwithstanding the application does not fit with the Island Plan, is of course a matter for the decision-maker.

4.3 Senator S.Y. Mézec of the Minister for Health and Social Services regarding Covid-19 PCR tests (OQ.239/2021):

What measures are being put in place to account for an increase in the number of Islanders requiring P.C.R. (polymerase chain reaction) tests as COVID case numbers increase and as more Islanders are identified as direct contacts as a result?

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

Two weeks ago we increased the number of available appointments at the harbour from around 500 per day to around 1,000 per day as we started to see demand increasing, particularly for direct contacts. Last week we tested just over 6,570 people at the harbour, including around 1,250 people with symptoms and just over 4,850 direct contacts. Recruitment is ongoing and 11 additional people started with us at the harbour last week with more new joiners earlier this week. The harbour team is continuing to increase the number of appointments available each day and we have just opened up to 300 appointments per day at the airport arrivals also, meaning we should have approximately 1,400 appointments available per day. I would like to thank all of the staff involved in so quickly expanding our capacity and assure Members we are working as quickly as possible to match supply with demand.

Senator S.Y. Mézec:

Do I not get a supplementary?

The Bailiff:

You have a supplementary at the end. The way it works, the questioner will ask the question, there is an answer, other Members can ask with a supplementary and then you have a final supplementary at the end, Senator. I have just checked back in my notes and that is the way we have operated certainly as long as my notes go back.

Senator S.Y. Mézec:

Sir, normally the questioner asks the question, the answerer answers and then the questioner gets their first supplementary before it is opened up.

[10:15]

The Bailiff:

Hang on a moment. Well, this may actually not be a red-letter day for me because I think having taken advice and having reviewed my notes further, it turns out that I was not right about that, which is a lapse of memory. I should stay in the Assembly every session and not allow gaps. Yes, supplementary question, Senator.

4.3.1 Senator S.Y. Mézec:

We do get out of the swing of things when it is 3-weekly sittings rather than fortnightly. The supplementary question to the Minister: could I ask what impact on waiting times for direct contacts getting their tests is being had by the extra capacity that he has added into the testing system? Does he have an idea of, on average, how long people are having to wait not knowing, even if they are asymptomatic, whether they have contracted COVID from being a direct contact and therefore potentially still being out in the community potentially spreading COVID? What are the average waiting times for direct contacts getting a test and then getting the result afterwards?

The Deputy of St. Ouen:

Waiting times have been very variable. In part it has been because of the need to catch up with the recruitment of additional personnel but it is also the case that quite a lot of Islanders are not attending at their allocated appointment time. Some are arriving very early or very late, some even on the wrong date. We are in a position where we have sufficient staff to process the allocated appointments

quickly but if people are not turning up on the time and date they are given then that will inevitably lead to queues. I would urge people to observe the times they are given.

4.3.2 Deputy R.J. Ward:

What is the current policy regards levels of infection across the Island because previously when we were told that if we start to test more we will see more cases, we have seen increasing cases again? Is there a point where mitigation measures will be taken?

The Deputy of St. Ouen:

The winter strategy has been released and makes clear that the critical issue here is the risk to our hospital and if we see larger numbers of cases coming into the hospital, particularly needing I.C.U. (Intensive Care Unit) treatment then that puts us in a much more difficult situation. We are not seeing those numbers at present and therefore we can say that we are not in the position the Deputy alludes to.

4.3.3 Deputy R.J. Ward:

May I ask the Minister then, the purpose of testing is to track numbers and to have people isolate, beyond that what are the indicators from that testing? It seems the only indicators being used is hospitalisation and I.C.U. treatment. How do those 2 things fit together given the huge investment in P.C.R. testing that we are making?

The Deputy of St. Ouen:

The intention is to slow the spread of the disease because with significant numbers of people in the community that will push through into hospital numbers. If we did not test, if we did not isolate, we would expect to see an escalation, a very rapid escalation of numbers in the community, and though the vast majority of those would not need hospitalisation because of the success of the vaccination programme, still there would be a number that would and a number that are likely to overwhelm our hospital services. Therefore, it is important to slow the spread of the virus so that our hospital and healthcare system can manage and also our education system can be maintained, and as normal a life as we can make in these difficult pandemic times.

4.3.4 Deputy I. Gardiner:

The Minister indicated that 11 people joined and they had undertaken a recruitment process, would the Minister confirm if these people also needed to go through the training programme as well to be able to join the team?

The Deputy of St. Ouen:

Yes, there is a training process, which I understand is 2 or 3 days. It may be that they are staff members that we have used before; I do not know the precise details of those 11 people.

4.3.5 Deputy I. Gardiner:

It is the fourth time that we have recruited people for the test and tracing team. In the early days of the pandemic it was a state of emergency and an understandable situation, it was not stable, but now it is predictable. What processes and procedures happened within the team to avoid this situation in the future? We had teams 3 times, we let people go 3 times and what has happened ...

The Bailiff:

I think that is simply asking the question a second time, Deputy Gardiner.

The Deputy of St. Ouen:

Many members of the team are working on zero-hour contracts and it is not full-time work for them. There is a need to be very flexible because we need to respond to the needs that arise at any particular time. Because of the experience that the Deputy has referred to, those who are heading the team are aware of a pool of people who might well be available, students in university holidays are also part of the pool. Those are called upon when needed and are happy to step down in slacker times. I hope that helps the Deputy.

4.3.6 Deputy L.M.C. Doublet:

The question asks what measures are being put in place to account for an increase in the number of Islanders requiring tests. I wanted to just narrow it down to children and ask the Minister how he is planning to mitigate the effects on education, because I am certainly hearing that children's education is being significantly disrupted already at this stage in the season and I think that is only going to get worse. Are children being prioritised for tests and what other measures can be taken to mitigate the impact on children having to be out of school for these tests?

The Deputy of St. Ouen:

The difficulties in educational settings have been raised with Ministers. We do understand the pressures in that it appears that children are having to attend too regularly, it would be seen by some, for P.C.R. tests because they are regularly being identified as direct contacts of classmates. There is work going on within C.Y.P.E.S. (Children, Young People, Education and Skills) to try and mitigate that, sometimes, stress to children who may have to attend 2, 3 times a week for a P.C.R. test. It may not be most appropriate thing to do because lateral flow tests are very reliable with the Delta variant. That work is being considered with public health officials with a view to trying to help in the educational setting.

4.3.7 Deputy L.M.C. Doublet:

Could the Minister ensure that the information about these measures is provided to the relevant Scrutiny Panels, please?

The Deputy of St. Ouen:

Yes, I will ensure that is going to be the case when plans are finalised.

4.3.8 Senator K.L. Moore:

Recently the Governor of the Bank of England has identified that the increase in public sector employment has led to increased pressure on private sector jobs and restrictions in supply of workers, I will not ask the Minister to consider whether he thinks that is a factor here but I would like the Minister to describe to Members what consideration he gives when going out to recruitment for these additional roles in terms of balancing the need for testing versus the need to maintain some supply of people for the private sector workforce?

The Deputy of St. Ouen:

Where there is recruitment by open advertising then it is for the job applicants to consider whether they wish to apply in the private sector or come and work in this temporary position in government. These are temporary positions. I would not have thought they are going to impact on the needs of the private sector greatly but, as Minister for Health and Social Services, I am not in a position to comment and I do not have any research that has been presented to me to cover the issues. Sorry, I cannot help the Senator any more than that.

4.3.9 Deputy G.P. Southern:

I do not believe I heard a direct answer to the Senator's supplementary question: how long do direct contacts have to wait, on average, not knowing whether they are infecting other people and not having access to the test?

The Deputy of St. Ouen:

I imagine the Deputy would like to know exactly how long but it varies day by day. It has been 3 days in recent days. I believe the figure is going to be lower now because of the recruitment that has taken place.

4.3.10 Senator S.Y. Mézec:

What guarantees can the Minister give us that this situation is under control and that they will adequately meet the demand there is out there for testing, the increasing demand as more people are contracting COVID as there are more direct contacts. I am aware of a constituent with symptoms who had been unable to get a test for 2 days and I am aware of lots of people who are direct contacts who were not able to get tests for 5 days and in the meantime were out and about in our community. What assurances can he give us that they are able to meet this demand and they are not simply being reactive but are increasing testing capacity down to a clear plan and projections knowing that this was inevitable as we headed towards winter?

The Deputy of St. Ouen:

I refer to the answer I gave to the Senator, the plans we have set out and the success we have had in recruiting. In his final supplementary the Senator asked me what guarantees I could give. He must know, as the whole Island I believe knows, that we can give no guarantees in a pandemic situation. The Islanders themselves are the key to this. If Islanders followed guidance, were careful about their movements, took tests before they mixed with large crowds of people - those are the lateral flow tests - wore masks in indoor public spaces and if they are asked to attend a P.C.R. test to attend at the date and time they are given to avoid delaying other people. We are in the hands of the Island, we are in the hands of this virus to a great extent, the Government is receiving good advice and putting all the measures in place that it can and thinks appropriate at this time. Thank you.

4.4 Deputy R.J. Ward of the Minister for Economic Development, Tourism, Sport and Culture regarding the effect of the industrial cultivation of cannabis on biodiversity (OQ.233/2021):

Will the Minister advise what impact assessment, if any, has been undertaken of the effect of the industrial growing of cannabis in Jersey on biodiversity?

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

There is not a specific assessment for the impact on biodiversity in the same way that there is not for other agricultural crops. It should be noted that cannabis has been grown on the Island for hundreds of years and, as such, is already part of the Island's biodiversity. In the context of medicinal cannabis, in order to achieve a consistent crop, it is grown inside highly controlled conditions preventing interaction with the crop and the outside environment. In relation to field and industrial hemp, this has no approved insecticide nor fungicide and does not receive fertiliser applications.

[10:30]

The male plants produce large amounts of pollen, which is beneficial to invertebrates, female plants produce many highly nutritious seeds which enter the local food web as they are fed into the standing crop or after harvest from the ground. Field hemp also supplies high levels of organic matter back to areas where it is grown, which support improves soil structure. As such, officers have advised that this type of pesticide-free pollen and seed rich cropping is beneficial to our biodiversity.

4.4.1 Deputy R.J. Ward:

That was a very interesting answer. The question I was going to ask was: does the Minister accept that the introduction of what is monoculture provides a real risk of damage to biodiversity and the introduction of new pests to the Island's ecosystem? This is a long-term industrial growing of a particular monoculture crop. I am just looking for reassurances that that has been considered in the long-term.

Senator L.J. Farnham:

Officers are considering the longer-term impact, both beneficial and perhaps otherwise, and studies could follow but at this moment in time there is no concern or evidence to suggest any negative impact in the crops. It is arguably far better for our biodiversity than some existing crops. As the industry grows and evolves, of course, I would like to assure Members that officers will be keeping a close watching brief. I have recently discussed with officers the possibility of doing some studies into various aspects of this and that is something we are looking at.

4.4.2 Senator S.C. Ferguson:

Has the Minister not considered that the continual growing of the same crop on the same piece of land over a considerable time is going to have a detrimental effect on the soil? It is a bit like when we were growing cauliflowers, the continual growth of one crop on one patch of land was very detrimental to the soil. Will the Minister undertake to look at this properly in a scientific manner?

Senator L.J. Farnham:

Yes. I refer the Senator to my original answer in that field hemp supplies high levels of organic matter back into the areas where it is grown and supports improved soil structure. Unlike many other crops we grow, of course, we are well-versed and we understand the consequences of monocropping and growing the same crop year after year, decade after decade. Of course I am referring to the Jersey Royal new potato, the mainstay of our agricultural sector. We are well-versed with that and we have learnt from that and will be applying what we have learnt to future new crops. The new crop strategy, the higher value crop strategy, as Members will know, came out of the rural economy strategy, which is currently being reviewed and updated.

4.4.3 Connétable K. Shenton-Stone of St. Martin:

Could the Minister please let the Assembly know what impact assessments, if any, were undertaken of the industrial growing of cannabis in Jersey on biodiversity before any of the investors took up residence with their ... or, sorry, started their businesses in their vast industrial units, perhaps inside greenhouses? I just believe that no actual impact assessments on biodiversity were carried out before all this started.

Senator L.J. Farnham:

Again, I think I explained that in my opening answer. The advice from our specialised team of officers in the area is quite clear that this type of pesticide-free pollen and seed rich cropping is beneficial to biodiversity. That is why it was not deemed necessary to carry out a separate biodiversity study.

The Connétable of St. Martin:

It just seems mind-blowing to me that it was not deemed necessary ...

The Bailiff:

I am sorry, it does have to be a question, it cannot be an expression of an opinion. Is there a supplementary question?

The Connétable of St Martin:

No, it would only be to just reiterate why there was no biodiversity survey carried out when the Minister is expecting this industry to be millions. Yes, it is basically the same question, sorry.

4.4.4 Deputy R.J. Ward:

I note that the Minister talks about the high pollen production of the crop that he is talking about in an enclosed area. Is there not a risk that that means that it is very likely that that will spread and be carried away from the areas of controlled growth and it could mean that there are distinct effects on our green biodiversity and subsequent attraction of pests well into the future? Is it not seriously needed to just ensure the long-term safety of the Island's biodiversity given the interlink between climate change and biodiversity change?

Senator L.J. Farnham:

There is no evidence of this and no evidence in other jurisdictions where this activity has been undertaken. The only evidence is that, for example, the spread of pollen serves only as a benefit to our natural environment and biodiversity. As I have said, officers are keeping a watching brief on this and it may well be at some time in the near future we do carry out some biodiversity studies with certain aspects of the cropping of hemp.

4.5 Deputy G.P. Southern of the Minister for Social Security regarding the decrease in value of the Health Insurance Fund (OQ.230/2021):

Given the declared intention of the Minister for Health and Social Services to undertake a "wider health economic review during 2022 to inform funding for increased healthcare costs", will the Minister explain the Government Plan 2022-2025 proposals to allow the Health Insurance Fund to decrease in value from £100 million to approximately £48 million by 2025, including how this does not pre-empt options in her colleague's review?

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

I can reassure the Deputy that on page 177 of the 2022 Government Plan there is an explicit confirmation that the future role of the H.I.F. (Health Insurance Fund) will be included in the Minister for Health and Social Services' review.

4.5.1 Deputy G.P. Southern:

Could the Minister explain why then, while this review is taking place, she is proposing running down the H.I.F. to one year's worth?

Deputy J.A. Martin:

I hope the Deputy will recall that the approval of the Government Plan last year set out the proposed transfers from the Health Insurance Fund to support the development of the Jersey Care Model. This went through the Assembly. The 2022-2025 Government Plan confirms the proposals set out last year. It has all been approved.

4.5.2 Senator S.C. Ferguson:

Why does the Minister think it is right to divert taxpayer funds away from the original purposes of the Health Insurance Fund?

Deputy J.A. Martin:

We have signed up, Senator, to the new Jersey Care Model. They are not taxpayers contributions that go into the H.I.F. and we keep doing everything the same. We want to look at the whole funding, the health funding, the Health Insurance Fund, we are trying to bring in doctors to do more work and

I do not think I did this on my own, Senator. As I say, it has come to the Assembly every time and it has been approved.

4.5.3 Senator S.C. Ferguson:

Why should the fund be used as a magic money tree by States departments to finance a theoretical proposal for a policy which experience has shown to be inefficient and expensive?

Deputy J.A. Martin:

I can only presume that the Senator is talking about the new Jersey Care Model, which I am fully behind. The fund, as I say, is money that supplies some funding, there is a massive amount of money that is over in the Health Department but neither of those 2 together are going to do it. That is why the Minister for Health and Social Services is doing a total review in 2022 of the health funding need and hopefully how it is going to be paid for.

4.5.4 Deputy R.J. Ward:

May I ask the Minister what level of available fund in the Health Insurance Fund is acceptable to the Minister?

Deputy J.A. Martin:

We collect money in each year and we are always meeting what we have to pay out each year. I just think, and it will be explicit, that this fund has been doing the same thing for lots and lots of years. We are moving the healthcare model. It may not be there, we need to merge some of this. We need to work together. It is acceptable to me, Deputy, that what we are asked to pay is still being able to be paid out because we are still collecting in.

4.5.5 Deputy R.J. Ward:

I am tempted to ask the same question again. Can I conclude from that answer that a single year of available Health Insurance Fund is acceptable to the Minister as long as what we are paying out is the same as we are paying in? That is fine, so we can run the Health Insurance Fund down to just a single year of funding?

Deputy J.A. Martin:

I am saying to the Deputy that the whole of the health funding needs to be looked at in this review, whether it is a year, whether it exists in a few years; until the review is done I cannot answer that. I am saying at the moment we can pay out everything that is asked of the Health Insurance Fund but is this the best sustainable funding and way to go with a new healthcare model? I am not sure.

4.5.6 Deputy I. Gardiner:

Would the Minister advise why the contribution from the Health Insurance Fund towards the G.P. (general practitioner) cost has not been increased for 12 years? It has been increased for us as residents and this money will not be spent on primary care and now it is spent for the development of the Jersey Care Model?

Deputy J.A. Martin:

Sorry, the Deputy is pre-empting the total review that is about to start or has just started.

Deputy I. Gardiner:

Apologies, I will make my questions simpler.

The Bailiff:

I am sorry, you cannot interject when an answer is being given, Deputy, but you do have a supplementary question afterwards.

Deputy J.A. Martin:

I am not sure this has anything to do with the original question.

The Bailiff:

Do you want to answer? You started your answer ...

Deputy J.A. Martin:

I will try. There are many reasons for the Deputy's question and we have been working with G.P.s over many years. They get different things for different monies, free smear tests, but there is lots of money that is paid out from the Health Insurance Fund. There is the new health access scheme for low income, children under 17 do not pay and everyone else pays £12. These are all things that have found their way for me to pay out of the Health Insurance Fund, which I am happy to do, but it does need this overall review with the Minister for Health and Social Services and all the funding ... and it will be a big cost with the ageing population - and I include myself in that - that will need to be supported in the years to come.

4.5.7 Deputy I. Gardiner:

The Minister indicated that we voted in the Government Plan 2021-2024 to move the money to use for the development of the healthcare model. Were any additional funds transferred after the vote in December 2020?

Deputy J.A. Martin:

If the Deputy is asking me how the funds are transferred, they have not actually been transferred. My officers are going line by line through what Health are spending with health officers and as soon as we are happy then we transfer the money. It may not be that actual full amount, it certainly will not be any more than that but we do not just give a blank cheque.

[10:45]

4.5.8 Deputy K.F. Morel:

Would the Minister confirm whether or not money has been passed to Modernisation and Digital? So some of the monies that were taken out of the Health Insurance Fund for using in developing the Jersey Care Model, have any been passed to Modernisation and Digital and can she confirm, if so, how much and was any of that for use next year rather than this year?

Deputy J.A. Martin:

I thank the Deputy for his question but I think I have just answered that. Everything that was asked for is then dependent on being proven. It is needed at that time. The work can be done and we are literally ... we are doing this all year. We did not give over the amount that was in the Government Plan and we will not be giving over the amount until we are absolutely sure. There was some money for Digital and I might have to check what that specifically was but, again, no money has been transferred yet.

4.5.9 Deputy K.F. Morel:

If money has been passed to Modernisation and Digital, or is to be passed to Modernisation and Digital, would the Minister confirm how she or the department are going to ensure that the monies passed to Modernisation and Digital are only spent on development of the Jersey Care Model or I.T.

(information technology) in this case for development of the Jersey Care Model? What oversight will she be placing over that?

Deputy J.A. Martin:

There are tight business cases and, as I say, my officers are going through line by line. We know that the healthcare record and lots of things in Health need to be modernised digitally so we know that some of that money was for that. Until we are absolutely sure that is what it is being spent on, it will not be passed across. I think the money does need to go across and once it is across the oversight will be from the officers in the Health Department.

4.5.10 Senator T.A. Vallois:

In the Jersey Care Model Strategic Outline Business Case there was a multi-year implementation plan developed that stated key projects were prioritised in tranches. Will the Minister commit with her colleague, the Minister for Health and Social Services, to provide an addendum to the Government Plan to identify what money has already been spent on those individuals phases and what is expected in the next phase in terms of the funding that is required in 2022-2025, please?

Deputy J.A. Martin:

Commit to what has been spent. I can find out exactly where we are going through the business plans and what has gone across or what is proposed to go across. I am dubious to speak for the Minister for Health and Social Services but, as far as I can, I will try and supply what the Senator is asking for.

4.5.11 Deputy G.P. Southern:

The Minister seemed to suggest that she was content with the operation of H.I.F. provided that what was coming in equalled what was going out in benefit payments. Has she not noticed on page 169 that her table reveals that costs are something like £4 million down on benefits? So the scheme, at best, is running at a deficit.

Deputy J.A. Martin:

I thank the Deputy. What I am saying is we know the H.I.F. has been doing what the H.I.F. does for many, many years and if you carry on doing something you get the same results. I think, and I know, the commitment is the whole of the Health funding, including the Health Insurance Fund, has to be put into this review. It will be a thorough review and we will know by the end of 2022. There is enough money in H.I.F. at the moment to do the daily payments in and out.

4.6 Deputy I. Gardiner of the Minister for Children and Education regarding the Primary School Estate Review (OQ.232/2021):

Further to the response to Oral Question 220/2021, will the Minister indicate the timeline for consideration of the recommendations of the Primary School Estate Review, including when any reports will be published; and will he advise what consultation on the recommendations, if any, is planned with stakeholders before any final decisions are taken?

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

I am unable to give the Deputy a detailed timeline at this time. The report is due to be discussed at the Regeneration Steering Group next week and the next steps will be dependent on the outcome of the Regeneration Steering Group's meeting. The report will be published in June but at this time it is still in development and needs to pass through the relevant decision-making bodies as detailed in my previous answer to the Deputy. As far as consultation, this will take place in accordance with the Education Law at the appropriate time and this will include a report to the States. I am happy to

consult with the Deputy after the Regeneration Steering Group meeting, if that is helpful to the Deputy.

4.6.1 Deputy I. Gardiner:

I notice that the report will be published in June, so it will be almost a year since we expected the report. Now my question that in the Government Plan 2021-2024 we had £22 million allocated to the development of Rouge Bouillon. I cannot see any reference to the development of Rouge Bouillon in Government Plan 2022-2025. Where has this funding gone?

Deputy S.M. Wickenden:

In the Government Plan we have funding allocated for a north of St. Helier school and a south of St. Helier school. That is where the work is looking. What we have done within this review is we have looked at what that would look like: will it be a new school, will it be an extension to a school? There are many sites, there is lots of detail involved in it that needs careful consideration.

4.6.2 Deputy R.J. Ward:

Will the report be published before deadlines for the Government Plan?

Deputy S.M. Wickenden:

No, they will not because the deadlines for the Government Plan are on the 30th of this month and we have the Regeneration Steering Group and then the Assembly needs to go through the process, so no, it will not.

4.6.3 Deputy R.J. Ward:

What advice would the Minister give for Members, particularly St. Helier Members, who are desperate to support our primary schools regards amendments to the Government Plan, to try and push this through if we have no sight of the school review?

Deputy S.M. Wickenden:

I think amendments without detail are unhelpful, so it is to wait for the detail. But I would ask Members to support the monies that are in there for a north of St. Helier and a south of St. Helier school as set out in the Government Plan, as that money is for the future and can be changed in the next Government Plan. That is what I would ask.

4.6.4 Deputy I. Gardiner:

I would bring to the Minister's attention to the following figures. Between 2021-2024 we planned to spend, and the States voted for, £22 million on the St. Helier primary school estate. Now, when I look at the current Government Plan between 2022-2025, a year later, it is a reduction of £6.5 million in spending for the St. Helier school estate. Are there any other projects the Minister can consider that can go quicker and the money that was allocated last year can be used to improve St. Helier primary school estates?

Deputy S.M. Wickenden:

The money set out is to do with building or extending into a new school. It has been moved in line with the art of the possible. Officers do consider all of this when they put forward recommendations. It is about next year what money is possible to be spent and what will be ready. The following years are having money put in to the Government Plan. Although, as we all know, as we have a rolling plan those monies and amounts can change and go up and down depending on the feasibility work and the starting work. So that is how it works.

4.7 Connétable M.K. Jackson of St. Brelade of the Minister for External Relations and Financial Services regarding the support of the British Government for Jersey's fishing industry (OQ.237/2021):

Further to the recent meeting with the U.K.'s (United Kingdom) Prime Minister, will the Minister state whether the Government was advised that the British Government supports Jersey's fishing industry and, if so, whether that advice includes how the British Government would demonstrate that support?

Senator I.J. Gorst (The Minister for External Relations and Financial Services):

As the Connétable is aware, the U.K. Government is ultimately responsible for discussions with the European Commission, the implementation of the U.K.-E.U. (European Union) Trade and Co-operation Agreement. During the recent meeting to which the Connétable refers, the Prime Minister reaffirmed his support for Jersey's approach to licensing French fishing vessels which has been reasonable and fully in line with the T.C.A. (Trade and Co-operation Agreement). The Prime Minister noted that both the U.K. and Jersey were issuing licences on the basis of evidence of historic fishing activity as required by the T.C.A. The U.K. Government continues to support Jersey through its discussions with the European Commission with direct involvement of Jersey officials as Jersey works to implement in good faith the T.C.A.'s provisions on fisheries and other matters.

4.7.1 The Connétable of St. Brelade:

The Jersey fishing fleet is somewhat despondent over the manner in which our Government has handled the Brexit arrangements with regard to fishing. While I appreciate the sensitive nature of the negotiations, could the Minister give fishermen in Jersey some justification why they should continue to invest in the industry and not take up knitting, as was the case in time past in the 18th century?

Senator I.J. Gorst:

I cannot comment on the economic viability of knitting, perhaps the Connétable can. I fully understand, as does the Minister for the Environment - who is in virtually daily, certainly weekly, contact with the fishing industry - the difficulties that they are experiencing on a daily basis, both his officers and my officers are constantly working to support. But, of course, the industry does not stand united in what its primary aim is out of the Brexit deal. It cannot be a surprise that the implementation of a changed arrangement, which is very much in Jersey's benefit and is to the benefit of a more sustainable fishing industry here in Jersey into the future, would be smoothly implemented and implemented in a timely manner. But it is important that we continue to implement the deal fairly, appropriately and pragmatically because it is ultimately in the interests of the Jersey fishing fleet to do so. We will then have a sustainable fishery into the future. That means that the Jersey Minister for the Environment will be the one issuing licences. That is right and appropriate. He will be the one taking measures around sustainability, that is right and appropriate, but it is going to take time. As it takes time the Minister for Economic Development, Tourism, Sport and Culture stands ready and has again this week put more funds aside to support industry where necessary.

4.8 The Connétable of St. Martin of the Minister for Home Affairs regarding action taken to address drink spiking (OQ.235/2021):

Will the Minister advise what recent records, if any, his department holds on the incidences of drink-spiking in the Island, and will he explain what action is currently being taken to raise public awareness of this issue and to address and mitigate any such incidents?

[11:00]

Deputy G.C. Guida of St. Lawrence (The Minister for Home Affairs):

During 2020 and 2021 the States of Jersey Police have taken reports of 25 suspected drink-spiking incidents, none of which have been confirmed. In almost every case the outcome has been confirmed as excess alcohol consumption. In short, there have been no confirmed cases of drink-spiking in Jersey during the last 2 years.

4.8.1 The Connétable of St. Martin:

I think this is one of those ones that is very difficult to prove but it does exist. Could the Minister address how women in Jersey who have been affected by this or have concerns about drink-spiking help and provide input into the development of new policies to mitigate it because I believe a lot of them do not come forward?

Deputy G.C. Guida:

I think the issue has had a lot of publicity, especially in the U.K. where there was a recurrence of cases. I do believe that the issue has enough publicity and that people are aware of it. The police do investigate every possible outcome and that people are tested to ensure that there were no drugs involved. However, the first drug used for spiking is basically alcohol itself, it is just being given a larger dose of alcohol than what you expect and there is very little to do after the fact. People must be aware that this is a possibility and need to be careful with their drinks.

4.8.2 Deputy L.M.C. Doublet:

I am disappointed that the Minister's message there was to potential victims to be careful with their behaviour. What is the Minister going to do to address potential perpetrators and send out a message about consent, i.e. that it is not appropriate to initiate any sexual contact with somebody who is too drunk or intoxicated to consent?

Deputy G.C. Guida:

I just introduced, 2 years ago, a new Sexual Offences Law which had been prepared by my predecessor, Senator Moore, and this sexual offence law is quite severe on this. It defines consent very precisely and the penalties for bypassing consent are extremely severe. I think it is strong as it is but I can use this platform to publicise it again. Sex without consent is extremely severely punished in Jersey.

4.8.3 Deputy L.M.C. Doublet:

I am not sure I agree with the Minister's last comment given our rape detection and conviction rates. What is the Minister's personal message to any potential perpetrators who might be considering committing such offences, please?

Deputy G.C. Guida:

The personal message is that we are talking about 2 offences that stack up. One is sex without consent, which is, again, severely punished in Jersey, and the other one is the use and supply, because in this case the possible supply of drugs, the drugs used generally for spiking are class B drugs. Just possessing them has a maximum penalty of 5 years in jail, supplying them - which would be the case here - is 14 years in jail. So we are talking about an extremely severe offence. It is really not something that you are going to come out unscathed from.

4.8.4 The Connétable of St. Martin:

I was stunned by the Minister's non-answer which seeks to put the blame on the victim. Drink-spiking is a dreadful offence; it does happen quite often. I will ask again: will the Minister commit to collecting this or similar data in order to improve safety in Jersey and provide ways to make it easier to report drink-spiking so women feel that there is a safe space. Also to educate men in general that this is an offence and will not be tolerated?

Deputy G.C. Guida:

Sorry, no instances of drink-spiking have been noted in Jersey in the last 2 years. It may happen and not be declared but as far as we know it has not happened in Jersey in the last 2 years, so I do not know what else I can say. People have to be careful but this is not a common occurrence in Jersey. The last thing, I can repeat again in any way you want, spiking a drink and having non-consensual sex carries a very heavy penalty in Jersey. I do not know which words I am expected to use for this. People are going to spend years in jail for this. This is definitely not something that is encouraged by anybody.

4.9 Deputy G.P. Southern of the Minister for Health and Social Services regarding healthcare funding options (OQ.231/2021):

What options, if any, does the Minister have, either under consideration or in development, to sustainably meet the potential sources of increasing costs for healthcare funding outlined in the proposed Government Plan 2022-2025 and beyond?

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

As set out the Government Plan 2022-2025, subject to its approval by the Assembly, I will be undertaking a wider health economic review during 2022 to inform funding options for increased healthcare costs and for any potential new health access schemes to be brought forward in 2023 for inclusion in the Government Plan 2024-2027. This is in line with the Assembly's decision in the care model debate last year requiring Ministers to bring forward for approval proposals for a sustainable funding model for health and social care to be operational by the end of 2025. The initial stages of this review have just started and it is planned for the review to run through the whole of next year. It is too soon to speculate on the potential outputs of that review and, as such, I am not in a position to comment on possible sustainable funding options today. However, as the Minister for Social Security has just explained in question 5, and as has been publicly stated, I can reiterate that the future role of the Health Insurance Fund will be included within my review.

4.9.1 Deputy G.P. Southern:

While the H.I.F. might be included, by that time it will be seriously depleted. Is the reality not that this decision by the Minister for Social Security pre-empts some of the options that the Minister will have in front of him in his review?

The Deputy of St. Ouen:

No, that is not the reality and it is not a decision by the Minister for Social Security, it is a decision by this Assembly.

4.9.2 Senator S.Y. Mézec:

The Minister will recall in the previous term of office, the previous Government had proposed one method to sustainably source the funding for healthcare in the future through the form of a health tax, which was rejected by this Assembly at least in part because it was a regressive tax that would have exempted the super-rich from paying their fair share. Would the Minister like to rule out pursuing any funding model in future which is regressive and exempts the super-rich from paying their fair share leaving the burden of the cost on the shoulders of those on lower incomes.

The Deputy of St. Ouen:

Every proposal brought forward for future healthcare funding must be fair or I do not believe it will gain support. That is a matter of conjecture. All the details, planning and proposals will be considered next year.

4.9.3 Senator S.Y. Mézec:

Just to confirm then, fairness is a guiding principle that the Minister is pursuing in this. Therefore, he will personally not bring forward proposals if, like the last round of proposals in the previous term of office, they exempt the super-rich from paying their fair share.

The Deputy of St. Ouen:

It is unnecessary to answer that hypothetical question. What is being done is over the course of next year, a very wide consideration will be given to all possible means of funding healthcare and will eventually be brought to this Assembly in the Government Plan to be agreed by this Assembly or otherwise.

4.9.4 Deputy R.J. Ward:

Does the Minister accept that lack of access, that lack of G.P. and primary healthcare, due to prohibitive costs, is a threat to the long-term health of many Islanders in Jersey and subsequently increases the long-term costs of healthcare on the Island?

The Deputy of St. Ouen:

Yes. It is the case that there are very real questions of access. People need to be able to feel that they can get the right care they need at the right time without having undue concerns about affordability. That is one of the aspects that will be considered in next year's review.

4.9.5 Deputy R.J. Ward:

Therefore, does the Minister believe that keeping the subsidy on G.P. visits at £20 for the last 10 years is effectively a mistake, an error that has been made, that is going to cost us long-term?

The Deputy of St. Ouen:

That is looking back into the past. The subsidy has remained for a period of time, but in addition, during that time, G.P.s have been funded in other ways by the Health Insurance Fund.

4.9.6 Senator T.A. Vallois:

I am going to ask a similar question to the Minister for Health and Social Services that I asked of the Minister for Social Security in terms of working with each other to bring forward what has been spent in 2021 as per what was agreed in the Jersey Care Model in terms of the implementation plan, what has been spent in 2021 and also, therefore, whether we are on track for the funds that are going to be spent in 2022 through the Government Plan?

The Deputy of St. Ouen:

Officers working with the Minister for Social Security are working with my officers to agree the funding that has been spent on the Jersey Care Model tranche 1. Once agreed, an amount of up to the figure agreed by this Assembly will be transferred across for 2021. The same exercise will take place in 2022, following approval, if approval comes forward, of the present Government Plan.

4.9.7 Senator T.A. Vallois:

I appreciate the officers have been doing the work behind the scenes. How does the Minister report that in terms of tangible benefits to the public so they can see the outcomes of that money being spent through that first part of the implementation phase?

The Deputy of St. Ouen:

We have issued an update on the Jersey Care Model. Tranche 1 was always intended to be a time of planning and putting necessary teams in place to establish new ways of commissioning and to concentrate particularly on intermediate care. Members might recall, under the previous P.82 proposals, which had some similarities; it is about the transformation of healthcare. It was always

said that not enough resources had been devoted, not enough had been done under P.82, because there were not sufficient people assigned to it and there was not enough planning around it. This has been corrected with the Jersey Care Model, has been done in tranche 1 and we are ready. In terms of public engagement, the engagement of the voluntary third sector groups, that will be very significantly ramped up next year.

4.9.8 Deputy G.P. Southern:

As part of his extensive review of the cost of delivering health, will the Minister examine the possibility of making all Jersey residents eligible for a significant subsidy on their primary care costs?

The Deputy of St. Ouen:

Very many options will be considered in this review - I do not see why that will not be - to be laid before Ministers, and ultimately this Assembly, for a choice as to how healthcare in Jersey should be funded in the future. Members should have no doubt, notwithstanding the present taxpayer investment and the present contributions we make into the Health Insurance Fund and the work of the Jersey Care Model, which might reduce costs, but it will still mean that costs will increase over the longer term. It is just that they will not increase as much as they might have without the Jersey Care Model. We have to provide for that increase. This review will be examining all the options that could be put in place. I would not like to see a repeat of the debate we had in the last States, as Senator Mézec has mentioned, that did not gain the overall support of this Assembly and Islanders.

[11:15]

4.10 Senator S.Y. Mézec of the Minister for the Environment regarding measures taken to address carbon emissions (OQ.240/2021):

Will the Minister state the tangible measures he has taken since taking office that have led to a direct and measurable impact on the production of carbon emissions in Jersey?

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

It is difficult to demonstrate the measure, the causation and correlation of Ministerial decisions and policy setting with a reduction of carbon emissions. In fairness, it is a challenge for all jurisdictions in the world who are on the same journey, because the exact impact of the policy is due to many factors at play and the uptake of the policy and any behavioural change. Generally trends are used as a proxy for how good and effective policies are. Of course, the reality is that those emission trends are impacted by many factors and not just one particular policy. In particular, for example, it is difficult as our current monitoring and measuring is done 2 years behind, which is in line with international practice at the moment, and is based on modelling against what is a business-as-usual technique. I am afraid it is complicated. I am happy to provide a list of all the workstreams, which I am currently leading on behalf of the Council of Ministers, as well as policy decisions on climate change work, in my capacity as a Minister. Because time is limited, I would rather circulate this or reply to a written question. In the meantime, to reassure the Senator, work is very advanced - in fact almost complete - on the carbon neutral policy roadmap, which will be produced for the States to debate early next year. Those and the actions will all be there to quantify detail using those techniques of measurement and so on that I have referred to.

4.10.1 Senator S.Y. Mézec:

That question was an opportunity for the Minister to list achievements and successes in reducing carbon emissions in Jersey and he did not seem to take it up. Can one infer from that that he is unable to raise any particular policy enactments that happened in his time of office that he at least believes may have had an impact on reducing carbon emissions?

Deputy J.H. Young:

Obviously “may have had an impact” is a very different question. What we have done is put a lot of effort into preparing for the climate change work. I have met the president of the Commission online, had discussions about our work with the other Islands. Myself and Deputy Wickenden prepared an education pledge on this, which was shown live at the real COP26 event. We made a webinar with other Islands, including overseas territories in the Caribbean and other societies that have had enormous damage. I was very pleased to be party to that. We have run home energy audit subsidies. We have so far done 649 audits with subsidies totalling £147,150. We have done work on habitats. We have done a lot of science work about blue carbon in our marine system, because while terrestrial carbon fixing is the scope and materiality of the act it is quite limited in our small landmass. Nonetheless, we have a major opportunity to blue carbon in the future within our sea area. That science has been done and it will pay dividends. Also, we have here an environmental outreach with education services that are running car-free days and energy efficiency events. I have attended numerous schools and presented to schools and others. I have had enormous help from the Education team. Of course, building standards are under review as part of the Island Plan. Also, of course, the creation of a £23 million Climate Emergency Fund, which I was happy to support and, in fact, took a strong initiative to do so. If the Senator would like a detailed list, I would be happy to expand and list on that. This is a long-term journey.

4.10.2 Deputy R.J. Ward:

May I ask the Minister: when will a list of actions be made public from the use of the climate fund and who will be deciding on those actions?

Deputy J.H. Young:

That fund, under the terms of reference approved by the States, sits under my Ministry. We have published information of what allocations have already been made. A very large portion of that has gone on the sustainable transport initiative, which was right; early actions there. A lot of work was done on preparation ... the work that I have referred to in the roadmap preparation, which required expert examination. We have had to incur those costs. Those have been done. All that detail will be in the report that we will be publishing. We are on the last draft. I have to take that to the Council of Ministers, because that is the rule. As far as I am concerned, I am aiming at getting this public before we have the Government Plan debate.

4.10.3 Deputy R.J. Ward:

Can I just ask the Minister whether the actions and a list of them will be available before the deadline for amendments to the Government Plan?

Deputy J.H. Young:

Procedurally, there is a lot of material already available, which I could provide. I need to check whether I am allowed under the rules of Ministerial code to release that publicly before 30th November. I am not sure if I can do that before then. I am always happy to release it privately to the Deputy, so he has the information.

4.10.4 Deputy L.M.C. Doublet:

Is the Minister aware of calls internationally to tackle climate change with the same urgency as we have tackled COVID-19 and indeed things like terrorism? Is this the attitude that he holds himself and indeed does the Government hold this attitude?

Deputy J.H. Young:

There is no question, the States have decided we have a climate emergency. The whole world knows it is a climate emergency. What we have to do is to make sure that the actions in the plans involve choices. We all know the costs in this work are huge; well beyond the immediate resources. What we have to do is target those resources and build up a plan right through 2030 to 2050. I am very proud of the work done and I thank all the Members who have worked with me and my Assistant Minister in that work as well. There is a priority. I hope I have answered the Deputy's question. If I have not, please come back.

4.10.5 Deputy L.M.C. Doublet:

What level of extra resourcing will the Minister's department need going forward to treat this as the emergency it is?

Deputy J.H. Young:

When the Deputy sees the carbon neutral roadmap ... at the moment we have £23 million, which with certainty will all go in the initial few years of the roadmap. It is, of course, open to other Members to increase the availability of that fund through Government Plan amendments this time and indeed it is open for the new States, after the June elections, to be able to shift major money. How much is required? I am not going to be arguing, it is around about £300 million over time. It depends on the timescale that £300 million has to be spent within. If it is 10 years, for example, then that is £30 million a year, which frankly we should be able to do as a wealthy Island. That is my personal view. Those are the issues for debate on the carbon neutral roadmap.

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

The Minister will know, like everybody else does, that historic housing and transport are the greatest emitters of carbon. What we need to do surely is to drive people on to public transport; public transport which is carbon neutral, carbon free, lower carbon. Will the Minister use that emergency fund of £23 million to incentivise LibertyBus to move to a carbon-free transport system, so Islanders can make a contribution to reducing their carbon emissions?

Deputy J.H. Young:

When Members see the roadmap that I have referred to, there will be proposed allocations of incentives; incentives to achieve the switch to carbon-free vehicles. There will also be decisions required in terms of, if you like, the sticks, the cost or charges for those who are unwilling to make those transitions. Yes, as far as I am concerned, having a bus service that meets the communities needs more effectively should be a priority. I am hoping if that debate takes place, and I am still in the Assembly, I shall be pushing for that in that debate.

4.10.7 The Deputy of St. Martin:

Can I ask the Minister why he feels he needs to wait for that debate? Surely it is an absolute given that public transport should be low carbon or carbon neutral and we need to have more people on it. Why do we need to wait for that debate?

Deputy J.H. Young:

In allocating limited funds, there are 2 ways to do it. We can either do it by gut feel or we can effectively make decisions on the basis of analysis, so we can assess, the way that the Senator's original question was, the carbon benefits; what is the saving and what is the cost to make sure we get the best use of that money. I absolutely can confirm that there is no question ... domestic heating is a major area where early gains are possible by providing support payments. Again, I can release the report in confidence to the Deputy if he prefers, because I do accept the point that if the closing date for amendments is 30th November, Members may wish to see that early.

4.10.8 The Connétable of St. Brelade:

Little work seems to have been done with regard to air quality monitoring and evidence therefrom. Would the Minister let Members know how he intends to proceed to rectify that situation?

Deputy J.H. Young:

The Constable will know how disappointed I was that the great idea of doing this sandbox project with Digital Jersey has not succeeded. I have met with Digital Jersey. I have met with others. We have now launched a new project where we are buying some kit. We are doing some immediate improvement in monitoring an alternative plan. However, in order to do the whole job and do it properly, I have asked for a proposal of funding to go through the system. There are 2 routes. It can either be done through amendment to the Government Plan, which I have suggested to the Connétable. I have sent him the papers. I have given him all the information and the business plan for that is available. These tasks do need decent resources. £250,000 is the estimate for that.

The Connétable of St. Brelade:

I thank the Minister for his answer.

4.10.9 Senator S.C. Ferguson:

What work has the Minister planned to assist people in adapting to a warmer climate?

Deputy J.H. Young:

It becomes about homes. The question of construction and design of people's homes is the most important area for that. That is in progress through the Island Plan work, which has set policies in there for a carbon neutral adaptation. There is also the issue about management of floods and building homes in areas of flood-risk and so on. Those sorts of things are very advanced in the Island Plan. The building regulation side is, of course, under discussion with a review of the building regulations, which will go part and parcel with that. That will help us cool our homes. Those are the adaptation approaches for us. We are fortunate that we do not have the immediate threats of survival of whole populations that large parts of the world face. That is where we are.

[11:30]

4.10.10 Senator S.C. Ferguson:

How will the Minister justify his position when it is proved that there is no emergency and that he has bankrupted low-income families for nothing?

The Bailiff:

That is outside the realm of the original question, which was about steps taken to reduce carbon emissions, Senator. I am afraid I rule that question as out of order.

Senator S.C. Ferguson:

In which case, how will the Minister justify his position when the steps that he is recommending to deal with carbon emissions are found to be based on fallacious science?

The Bailiff:

Again, Senator, that is again not in accordance with Standing Orders, because it requires a hypothetical position to be dealt with and it is impossible for the Minister to answer if his evidentially position is different. It is posing an unproven and hypothetical situation, I am afraid.

4.10.11 Senator S.Y. Mézec:

Quite right on your ruling just then, Sir. I have asked the Minister twice if he can attempt to list tangible measures that he has taken since taking office that have had a direct and measurable impact on the production of carbon emissions in Jersey. In response, he has only referred to things like hosting a webinar, going to COP, reviewing this, reviewing that. All of which is the sort of thing that Greta Thunberg would describe as blah, blah, blah. There are only a few months of this term of office left, is the Minister saying to us that the legacy from this term of office will simply be words on a sheet of paper and not to anything that we can point to and say that had an impact in reducing Jersey's carbon emissions? Is that really what the end achievement of this 4 years' term of office is going to be given the existential crisis we are facing?

Deputy J.H. Young:

It is hard to answer that without giving a very rude answer. As far as I am concerned, I have worked my gut off, if I am allowed to use that argument, in order to progress this. As far as I am concerned, we have to make sure we have a framework of long-term decisions, long-term change that sets this Island on the right path and will put us ahead of other places in the world. That is the task that I have taken on. Reserve judgment, please, Senator, until you see the work that we have in progress in our roadmap. I will give him a list. The list is not blah, blah, blah, because he asked me for that, he asked me the question.

4.11 Deputy M.R. Higgins of the Minister for the Environment regarding Northern Leaf and Tamba Park applications (OQ.242/2021):

Will the Minister explain how his department has applied planning legislation to developments relating to Northern Leaf and Tamba Park and advise whether any instances of the legislation not being applied or followed have been identified? If so, will he state how and why those instances occurred?

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

Planning legislation has been applied to this site in the same way as other sites across the Island by the regulatory team, I.H.E. (Infrastructure, Housing and Environment). Where breaches of regulatory control have been identified, work has halted and retrospective planning applications were submitted and determined by the Planning Committee, as is the usual standard. Other development, which is permitted by the Planning and Building (General Development) Order 2011, has allowably continued. That is because under that order they do not need an application. Instances where there has been a misunderstanding or incorrect adherence to planning permission can happen for all sorts of reasons. It is the role of the very small important team of I.H.E. to ensure clients work with the applicants to seek appropriate resolution and the normal approach is by seeking agreement. A service of a notice or court action is a last resort.

4.11.1 Deputy M.R. Higgins:

I find the Minister's answer amazing. He has been to the site and he has seen the glasshouses have been developed and developed in such a way it is not compatible with the agricultural laws, because a glasshouse is not a building. There has been plant and machinery put in them, which is not allowed. They are only allowed in industrial buildings. He has been well aware of this and so has his department. They have had many, many emails on this yet not action has been taken. How can the Minister say that they are inadvertent or that the department has kept the whole thing under control?

Deputy J.H. Young:

The Deputy asks about the site and refers to Tamba Park and Northern Leaf. The department has investigated several complaints relating to various owners of the retreat farm in recent years. During its time as an active tourist attraction the area of former shops and café was used as a children's play

zone. When the site was not in active use, the department received complaints relating to the storage of goods in shipping containers, the raising of land levels, the importation and processing of waste building material, the parking of vehicles and the erection of marquees for ice-skating and COVID-19 testing without consent. Most of these matters were resolved with persuasive compliant techniques. However, 3 enforcement notices were served in the autumn of 2020. I am pleased to report and advise these notices have been complied with. Since the site has been brought back into agricultural use for medicinal cannabis production the department has investigated complaints related to unauthorised construction of fencing, an oil tank, a water tank and a boiler room. These more recent matters are the subject of current retrospective planning applications. Yes, I have visited the site. I have seen what the scale of the medicinal cannabis industry is now, which is, of course, very, very different. I have given instructions that 2 officers prepare drafting instructions to amend the General Development Order as appropriate to provide greater clarity, so that where any intended industry in relation to said use does require consent.

Senator S.W. Pallett:

The last few sentences of the last answer have answered the question that I was going to ask about general development orders and whether the Minister was intending to change them. I do not know, he may want to elaborate on it, but I am glad that he is following that route.

4.11.2 The Connétable of St. Martin:

Does the Minister really believe that it is in the Island's interest for retrospective planning permissions for these industrial factory units to be granted? Is it not closing the stable door after the horse has bolted?

Deputy J.H. Young:

The new industry has presented challenges to the planning team as to where there has been ambiguity about the scope of the General Development (Jersey) Order. These elements were identified as being part of the work that has taken place. It was deemed that they step outside the scope of the current exemption. There are other matters that have been done within the exemption. The advice that I just gave, that I want to have the law changed to bring it all within the scope of requirement to make an application, will address that. On the issue of is it enough to just have current retrospective planning applications, my understanding is that practice was introduced as a result of the Attorney General's advice that prior to prosecutions for transgressions then the applicants should be first given the opportunity to regularise that matter through a planning application. That was the advice and that is being currently followed.

4.11.3 Deputy M.R. Higgins:

To be honest, I am appalled by what I have heard from the Minister. It appears that the department is falling over backwards to help these firms to bring in the medicinal cannabis business into the Island. Bearing in mind the department has been already reviewed by the Norfolk Police for various actions. Will the Minister be prepared to refer this particular project and the applications to it to the police to be independently investigated to see whether the officers are acting appropriately or misusing their office?

Deputy J.H. Young:

I know that the Deputy alleges malpractice by the officers. I absolutely refute that allegation. I have sought advice from the law officers on the matters that the Deputy has referred to. As far as I am concerned, there is no evidence. I have no idea about the Norfolk Police issue. It all predates my time. I listened to the Attorney General's answer to the Deputy's first question. What I heard was

he said that anybody, any person, can refer any matter to the police at any time. If he is asking me do I have a basis on which to do so; no, Sir, I do not.

4.12 Deputy R.J. Ward of the Minister for Social Security regarding disregard on earnings and social security claims (OQ.234/2021):

Will the Minister state the maximum and minimum time it takes for the effect of a disregard on earnings to be added to a social security claim?

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

The income support system includes a disregard against earned income. Disregard is part of the overall benefit calculation and takes effect automatically and instantly from the same date as the earning themselves are recorded on the claim.

4.12.1 Deputy R.J. Ward:

When the Minister says “recorded on the claim”, is that when the person working informs the department? Is there ever a delay in between the information being given to the department and the application of the disregard?

Deputy J.A. Martin:

I am informed that as soon as the individual has informed the department, it is put on to the computer. As soon as the earnings ... it might be a slight delay that the person does not earn until the end of the month, as soon as their earnings ... the disregard is allowed.

4.13 Connétable of St. Martin of the Minister for Home Affairs regarding the safety of women walking or using public transport at night (OQ.236/2021):

Will the Minister state what action, if any, is currently being taken to ensure that women walking and using public transport late at night are as safe as possible?

Deputy G.C. Guida (The Minister for Home Affairs):

Incidents of assault, including sexual assault in public spaces and on public transport, are thankfully rare in Jersey. In the vast majority of assault cases parties are known to one another. I have increased the number of police officers by more than 10 per cent. This allowed more patrols and more community policing. Also the police target known or suspected perpetrators using intelligence and geographical analysis. Finally, our town, St. Helier, benefits from an extensive C.C.T.V. (closed-circuit television) system, as do LibertyBus.

4.13.1 The Connétable of St. Martin:

Is there a way that women in Jersey can provide direct input into development of new policies and strategies to improve their safety? Has any consideration been given to more direct policy-making opportunities, such as citizens panels and assemblies, to give women in Jersey the chance to make the Island safer?

Deputy G.C. Guida:

The Ministry would welcome such a thing. We certainly have no problem with the idea. Anybody who would like to be involved could talk directly to the Ministry or myself.

4.13.2 Deputy L.M.C. Doublet:

I just wanted to ask about the Minister’s statement that sexual assault is rare in Jersey. Is the Minister aware of the national survey that found that 97 per cent of young women had been sexually assaulted or sexually harassed? Does he think that this figure would be any different in Jersey and why does he think that?

[11:45]

Deputy G.C. Guida:

No, I was not aware of the survey, which I expect will have been from the U.K. I would expect this to be much less in Jersey. We recently had crime statistics in Jersey and we even beat Guernsey in the number of crimes. Jersey is a very, very low crime community. It is interesting because I was asked this in an interview and they said: “Oh, so we have the lowest rate of crime in the British Isles. What do you do next?” I said: “Well, we do not change anything. There is no figure at which point we say that is enough and we will stop.” Policing and prevention will continue whatever the numbers are.

4.13.3 Deputy L.M.C. Doublet:

If the Minister believes that the figures would be different in Jersey, would he please commit to doing some kind of survey or work to assess the extent of this problem in Jersey, so we know what we are dealing with, please?

Deputy G.C. Guida:

It is a good idea and I will see whether we can start on something like that.

4.13.4 Deputy R.J. Ward:

Given the answer just given by the Minister, was the Minister aware of the surveys that have happened in our schools recently where many young girls and young women have detailed sexual harassment. It seems to be a day-to-day experience, which is fundamentally wrong for our society. Would the Minister not accept that this would extend into the wider community and particularly in terms of the safety of girls and young women travelling, particularly travelling alone at night on the Island?

Deputy G.C. Guida:

I completely agree with the principle that whatever happens in the rest of the world is extremely likely to happen in Jersey. Again, doing a survey to see how prevalent the problems are here is a very good idea and something that I would recommend and help do. Again, there is little crime in Jersey. If you really want to know, in terms of assault it is much more likely that a male will be a victim of an assault than a female.

Deputy R.J. Ward:

With respect, the question was about a survey that had happened in Jersey, in our schools, and whether he believes that the extension from that survey and that information would be relevant to the wider community.

The Bailiff:

Yes, that was the thrust of the original question, Minister. So if you could perhaps address that.

Deputy G.C. Guida:

Yes, absolutely, we have the results of the survey and we are acting on it, of course. I am not quite sure what else the Deputy wants me to say, except that, again, there is less crime in Jersey than in most other jurisdictions.

4.13.5 Deputy R.J. Ward:

I would ask the Minister whether he would state to young women and girls that he is aware that there is an issue for them in travelling safely on this Island and that is everybody’s responsibility and he

would work with all members of our society to highlight that factor and address it rather than deny that it is an issue for us on this Island?

Deputy G.C. Guida:

Sorry, again, we experience at a low level every type of crime available in the world. I am not quite sure why we need to accept that one is offering more or less than another. I am not sure I understand the question. There is very, very little chance of assault of a female in public transport or in the streets of St. Helier. It is not a non-existent problem, but it is a problem that we have less than other jurisdictions. Why do we need to do more work on it?

4.13.6 Senator K.L. Moore:

Following recent coverage of the low conviction rate for rape and sexual assault in the Island, would the Minister consider and commit to the Assembly to revisiting the amendment brought by the former Education and Home Affairs Scrutiny Panel with regard to Jurat trials for rape cases?

Deputy G.C. Guida:

The situation is unfortunately a little bit more complex than just low conviction rate. The reason why there are low conviction rates is very, very complex. I am disappointed as much as the Senator, but I am not sure that taking Jurats or juries for the trials is the easy way to do it. The problem with any rape conviction is proving it, is evidence. Very, very often it comes down to one word against another. This is very, very difficult to judge. I do not see how changing the mix or the constitution of a trial is going to affect that.

4.13.7 Senator K.L. Moore:

Would the Minister agree that confidence in the prosecution of alleged perpetrators would give greater confidence to those people who may consider coming forward to report a crime, who often do not because of the intimate nature of those crimes?

Deputy G.C. Guida:

There are 2 questions there. The first question is trying to get a better conviction rate. I am, as is the Senator, completely disgusted by the fact that some people may be walking away from this crime. There is no excuse for it, except for the fact that it is very, very difficult to prove. The other side is quite well-served in Jersey, as she will know. We have a Sexual Assault Referral Centre at Dewberry House, which is extremely efficient and discreet at helping victims of crime. We are developing that into a victim centre that will be just outside of town, if everything goes according to plan. That will have a multiagency service for victims of crime. Again, we are doing well now. We will do even better in the future for the victims themselves.

4.13.8 Senator S.Y. Mézec:

Irrespective of any comparisons with crime rates in other jurisdictions, does the Minister consider that the most effective way to ensure that women are safe at night is for predatory men to not assault them in the first instance? **[Approbation]** Would he agree that when discussing this issue that the strongest messaging ought to go out towards would-be perpetrators rather than victims?

Deputy G.C. Guida:

Absolutely. Again, who could answer differently to that? I would like to remind the Senator, and I have said this before today, that rape is a very serious crime in Jersey. In fact, it is one of only 2 crimes that carries a maximum penalty of life imprisonment. Rape is considered as serious a crime in Jersey as murder. I am not quite sure how further than that we could do it to make us sound serious about it. Rape is as serious a crime in Jersey as murder.

4.13.9 Senator S.Y. Mézec:

Of course, what the Minister has just said is true but the fact of the matter remains that there are low conviction rates for this incredibly serious crime and many people do not have confidence in the system to report those crimes in the first instance because of that. So what is the Minister going to do to try to build up confidence in that system so that would-be perpetrators out there can know that they will not get away with it and that they would face an extremely serious punishment were they to assault women and that that would be an effective way of making sure that women are safe at night?

Deputy G.C. Guida:

Again, the best way to deal with it is the way that we have chosen to go. The Sexual Assault Referral Centre is the best place to go in the case of an assault. It will help the victim not only recover from the ordeal but also ensure that everything is set up for an investigation and a possible prosecution. So it is very, very discreet, it is very, very helpful but, importantly, it sets up the background for successful investigation and prosecution. So we do have the tool and I urge victims to use it as much as they can. Apart from that, the rest lies in the justice system and the fact that our justice system still relies on evidence and that evidence as we go forward.

4.13.10 Deputy M.R. Le Hegarat of St. Helier:

What work are the States of Jersey Police doing with the schools in relation to the recent survey that was completed?

Deputy G.C. Guida:

The investigation has started. We are of course very aware of the reports and the investigation is ongoing; that is all I can say about it.

4.13.11 Deputy I. Gardiner:

I would like to ask the Minister if he is aware of multiple stories shared on social media from a local woman disclosing sexual assault and harassment and if the police force is monitoring social media.

Deputy G.C. Guida:

I do not personally monitor social media. The police do but not as principal tools, just general intelligence. Again, it is quite important for a victim to go to the police or, better, to go to the Sexual Assault Referral Centre and talk to them if they want anything to happen.

4.13.12 Deputy I. Gardiner:

Would the Minister advise what level of the sexual assault and harassment is acceptable to the Minister?

Deputy G.C. Guida:

There is no acceptable level. In fact, the Sexual Offences Law, again, if you want to talk about how seriously we take things, touching can carry an up-to-10 years' imprisonment sentence, so there is no acceptable level of sexual offences.

4.13.13 The Connétable of St. Martin:

I think fellow States Members have asked quite a few of my supplementary questions, so I thank the Minister for his answers and look forward to the surveys being undertaken and further action being taken.

5. Questions to Ministers without notice - The Minister for Children and Education

The Bailiff:

That finishes questions with notice. We come to questions without notice and the first Minister to answer questions is the Minister for Children and Education.

5.1 The Connétable of St. John:

Could the Minister advise the Assembly if he has allocated funds in 2022 for birth parents' support and advocacy services in Jersey?

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

I thank the Connétable for his question. There is money for advocacy services in the plan. We have been setting up the independent advocacy service for care homes and birth parents and that is set out in the Government Plan, yes.

5.1.1 The Connétable of St. John:

Can the Minister confirm how much has been allocated and when he hopes such a scheme will start?

Deputy S.M. Wickenden:

I do not have the figures in front of me to be able to give that but I can hand that over though, it is in the Government Plan. We obviously have to get the funding agreed by the Government Plan before anything can happen but we have started preliminary work to make sure that we have a service ready to go when it happens.

5.2 Deputy I. Gardiner:

Field H1533 at St. Helier was safeguarded to the First Tower School in the previous Island Plan. It is also safeguarded in the bridging Island Plan for developing much-needed outdoor facilities for the First Tower School. Would the Minister advise what consultations, if any, he has for developing the field for the school?

[12:00]

Deputy S.M. Wickenden:

I am not aware of any work that has been ongoing in that area at the moment. At this current time I have certainly not been briefed on any work that has been going forward.

5.3 Senator K.L. Moore:

What is the Minister's view or how would he describe the level of recruitment and staffing within the primary school sector currently, please?

Deputy S.M. Wickenden:

The primary school recruitment and retention is some of the strongest we have got. We tend to have very little turnover in staff in the nursery school provision and primary school provision.

5.3.1 Senator K.L. Moore:

Could the Minister inform the Assembly whether he has received concerns from headteachers of some primary schools who are struggling to fill vacancies in their schools? There are currently a number of posts being advertised, why is that?

Deputy S.M. Wickenden:

From recollection, I have not received direct concerns from heads of nursery schools about such a matter.

5.4 The Connétable of St. Brelade:

I am aware that the operational management of schools is undertaken by the heads but would the Minister let Members know what his policy is with regard to recycling in schools?

Deputy S.M. Wickenden:

I do not have a policy or I have not set one since I have been the Minister. I am not aware of a policy that was before me regarding recycling in schools. I do, as the Connétable says, allow operational matters to be managed by the heads of the schools.

5.4.1 The Connétable of St. Brelade:

Would the Minister agree to work with the Minister for Infrastructure to put a policy in place which is acceptable to members of society these days?

Deputy S.M. Wickenden:

I am always happy to work with my fellow Ministers and I will bring it up with the Minister when I see him.

5.5 Deputy M.R. Higgins:

Last Sunday, 21st November, the Jersey Citizens' Panel gave a concluding presentation at the Société which the Minister indicated that he would attend. Would he like to use this opportunity to publicly apologise to the survivors and facilitators of the panel for not turning up to their presentation after accepting the invitation? Would he like to explain why he did not turn up or send apologies?

Deputy S.M. Wickenden:

I thank the Deputy for giving me the opportunity to answer this. I am writing to the panel to apologise. Unfortunately, due to unforeseen circumstances of a family nature I was unable to attend and at the same time it was such an emergency that my apologies were not sent. I do apologise and I am writing to the panel.

5.6 Deputy G.P. Southern:

What action will the Minister take to resolve the issues highlighted in the speech by Deputy Ward this morning?

Deputy S.M. Wickenden:

Firstly, can I thank the Deputy and the Assembly for allowing the speech to be taken early so questions could be asked of me during this time? I think it is very helpful to give a response. I have been replying to the Scrutiny Panel whenever they have written to me. I have offered a briefing on the funding review and I have made it clear that when the process has been followed that I have set out, where one of the reports goes to the Council of Ministers, it will then be shared with the Scrutiny Panel, which is no different to the policy and the process that was set out by Senator Vallois during the school funding review. I cannot share the funding formula with the Scrutiny Panel because I do not have it. I cannot share something I do not have and it would be unhelpful for any amendment to share incomplete data as it would create an amendment of incomplete factuality.

5.7 Deputy L.M.C. Doublet:

The information about sexual assault and harassment in the private schools that was discussed in a previous question was initiated by students themselves. What is the Minister doing to establish the extent of these issues in the other schools in our Island, please?

Deputy S.M. Wickenden:

There is an annual survey that goes out, at an age-appropriate level, a survey of the children and young people, asking questions to get information anonymously about such matters. That is set out within that survey; that is an annual survey.

5.7.1 Deputy L.M.C. Doublet:

Could the Minister give details on who administers this survey, please? Does every child have a chance to complete the survey and will the child's school be indicated so that school-specific measures can be taken?

Deputy S.M. Wickenden:

Statistics Jersey undertake the survey as appropriate. Every child has an opportunity as long as their parent consents to them. The information is sent to the parents to ask for the children to fill out the form as appropriate and they are aware that it is anonymous.

5.8 Deputy M.R. Higgins:

Following on from the Minister's earlier question, his non-attendance at that event and some other comments and things that he has done leads a number of people to believe that he is not really committed to protecting children in this Island. Will the Minister say whether he agrees with all the recommendations of the Independent Jersey Care Inquiry and, if not, what recommendations does he not agree with and for what reason?

Deputy S.M. Wickenden:

I refute the Deputy's infringement that I am not for supporting and caring after children in this Island. I think my record has shown that I have fought hard for it. The Independent Care Inquiry reports and recommendations came out; there were a few that I was a little bit not 100 per cent on. Knocking down Haut de la Garenne and replacing it was one that I found confusing. Another one, I guess, was putting into the oath of office the looking after children, the corporate parenting, because the oath of office is about all of the Island rather than trying to envisage. As you start trying to create little bits in, you have to then add for the disabled and for the elderly and for the vulnerable. I think we tried to do something on P.P.C. (Privileges and Procedures Committee) to set out a job description for States Members that would then be put within the oath of office. So I challenge some areas of some recommendations but in total I agreed with nearly all of them.

5.8.1 Deputy M.R. Higgins:

Could the Minister tell us which ones he strongly agrees with and what he is doing in those areas?

Deputy S.M. Wickenden:

Of course. There was creating a ministry for children. There was creating an Office of the Children's Commissioner. There was doing work on ... there are so many, it has been a while, and I have been getting on. I strongly agree with quite a few; most of them.

5.9 The Connétable of St. Brelade:

Leading on from questions asked by the Connétable of St. Martin earlier on: would the Minister agree or perhaps tell Members whether there is anything in education programmes which might tell young men what their social responsibilities are with regard to young ladies on the streets?

Deputy S.M. Wickenden:

Of course. We have the P.S.H.E. (Personal, Social, Health Education) curriculum and within the different key stages there is age-appropriate training and parts of the curriculum that is all about respect of other people. I recently visited Victoria College and Victoria College Prep and there was a lot of artwork on the wall that talks about respect. So every day when the children in the primary

school walk out of their classrooms in any part of the school, there are pictures that show respect and caring for other individuals. It is at the heart of what they see every day in the school.

5.10 Deputy M.R. Le Hegarat:

Following previous questions in relation to the surveys that have been done in schools, can the Minister please advise if further policies have been put in place by the schools in order that young people feel that they are able to report matters within the schools?

Deputy S.M. Wickenden:

There have been discussions at assemblies across all of the schools about what is the right place and who to go to in certain instances. In fact, in all of the school visits that I have done recently the banners are up in every school that I have attended in the communal areas that lay out how to contact Y.E.S. (Youth Enquiry Service), when they are open, Kooth, the Sexual Assault Referral Centre. That information is up in schools and they have had assemblies to tell pupils and students who to go to, how and when.

5.10.1 Deputy M.R. Le Hegarat:

What about in the actual school itself? Obviously I am aware of the Y.E.S. project and other agencies but what I am asking is: are there any policies that have been introduced in the schools themselves in order that a child can go to somebody within the school at the time that they wish to report the matter?

Deputy S.M. Wickenden:

Yes, there are counsellors, we have got E.L.S.A.s (Emotional Literacy Support Assistants). Any teacher should take very seriously if any student goes up and talks to them and refers such a matter to help them and where they should be going appropriately. The teacher should be aware of what that process is.

5.11 Deputy R.J. Ward:

I believe the Minister stated that he has not seen or does not have the school funding formula. Can I ask if that is the case, what is his role in the quality assurance process?

Deputy S.M. Wickenden:

There is a lot of work going on, including headteachers. Right now the headteacher of Hautlieu is making a very strong part of what is going on with quality assurance on the school funding formula. Once they have completed their work, I will have a briefing by the officers on the recommendations based on the back of the report that is written and the work that has been done.

5.11.1 Deputy R.J. Ward:

So does that formula exist and, if so, is the implementation date of January for funding from that new formula, which was suggested in the public hearing, still a realistic deadline?

Deputy S.M. Wickenden:

The funding formula in its totality does not exist in a completed format. The Scrutiny Panel was made aware within a private briefing on the education reform programme on 1st November that it will be completed before the end of December and they will be able to see a version of it before the end of November. That has not changed since that briefing.

Deputy R.J. Ward:

With regards to the question of the implementation in January in schools that I asked?

Deputy S.M. Wickenden:

Well, the funding formula will be shown within December. There are monies within the Government Plan to try and address that. How that works, I cannot guess the outcome of the formula, but whatever happens we will try and implement whatever we can within the January based on what is in the Government Plan.

6. Questions to Ministers without notice - The Minister for the Environment

The Bailiff:

That brings the time available for questions to this Minister to an end. The next question period is for the Minister for the Environment. Does any Member have any questions for the Minister for the Environment?

6.1 Deputy R.J. Ward:

As a tangible act, would the Minister provide for all schools, primary and secondary, on the Island signs that can be displayed outside the schools that tell parents not to have their engines idling while they are waiting with children or for children? Because this Minister may save me from some sort of attack for telling parents on the way past schools all the time: "Could you please turn your engines off" which would be I think a very good deed from the Minister for me.

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

Absolutely. I will speak with my colleague, Deputy Lewis, the Minister for Infrastructure, and ask him to commission these. In fact, I make the plea now to the public and parents: please turn your engines off outside school sites. The pollution and emissions are dangerous for the young children.

[12:15]

Deputy R.J. Ward:

I would ask for a date but I will not push it.

6.2 Senator S.Y. Mézec:

Following questions at a previous States sitting, has the Minister had an opportunity to further consider the issue of affordable housing on government-owned sites and is he able to confirm whether or not he will support greater provision of affordable housing on government-owned sites?

Deputy J.H. Young:

Yes, I maintain my position that I absolutely want to support affordable homes. I can add that the current Island Plan policy is that States-owned sites should be developed for affordable housing and affordable housing should be given priority. That is the current Island Plan policy. I have had a number of meetings with the Council of Ministers, including yesterday, and I think we are going to have that debate later in this session. I am certainly looking forward to getting clarity on what is meant by affordable housing. I think we do have some misunderstandings here which has made that issue confusing but, as a principle, affordable housing has to be a priority and I have been pushing for progress on the Senator's line. Let us have the debate and I will see how it goes where the Minister for Housing and Communities is on here as well.

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

My question is in relation to the proposed Coastal National Park. At the recent planning inspectors' hearing his officers stated that ample consultation with residents had taken place. That is not the position that I have. Would the Minister undertake a further period of publicity and consultation with

residents affected by the introduction of the proposed new Coastal National Park so that they fully understand the implications of what is being proposed?

Deputy J.H. Young:

I listened to the entire first week of the inquiry and it was very disappointing to me that the one issue of what I thought negativity was the argument - and it was a strong argument - between those who live in those areas who somehow seem to be threatened, threatened by the proposal that we look after and protect the very, very best parts of our landscape. That inquiry is ongoing, it is not finished. I certainly take the view that the processes have been fully compliant with the law on consultation. If the Connétable is saying will I act unilaterally and withdraw it before I see what the inspectors' report has to say? No, I am not going to do that. I would say as well that we had very strong views in the opposite direction from the National Trust for Jersey, from the chairman of the Coastal National Park and indeed from the Société who were passionate in their support of this proposal. My view is simple, if we are going to have to make a trade-off and use greenfield sites that none of us want to use, we are going to have to protect that special part of our countryside, and that is what that proposal seeks to do. But I cannot make a judgment until I get the inspectors' report and, of course, eventually it will be for Members to decide in this Assembly.

6.3.1 The Connétable of St. Ouen:

I would just like to correct a statement made by the Minister. My question was not whether there was approval or otherwise, it was whether he felt it necessary to raise the level of awareness among those people who will be impacted by the Coastal National Park. Because the feedback I have is that awareness is relatively ...

The Bailiff:

Well, is that a question, Connétable?

The Connétable of St. Ouen:

Yes, I am asking if the Minister will undertake further consultation or indeed awareness with members of the public who are affected by this.

Deputy J.H. Young:

Well I do not know how much more effective communication I can do. This proposal has been out there in the draft plan since April. We have had a long, long period of public consultation. We have had, I think it is about 800 representations in for all sorts of for and against on just about every issue. I think the whole process of evolution of the draft plan take its course. I think to try and divert one part out of it into a separate one is not the way to go.

6.4 Senator T.A. Vallois:

Can I ask the Minister if there is a current backlog in planning applications and, if so, what he is doing about it as Minister?

Deputy J.H. Young:

Yes, there is, I have not kept any secret about that. The last information I had is that the current planning team which are part of the I.H.E. regulation have 500 planning applications. There are 10 officers there, which is a personal caseload of 50; the target caseload is 25. There has been intense pressure on activity on trying to recruit additional staff. So far I do not think that we have been able to succeed in that. I have to say that I have heard from the officers who lead I.H.E. there is considerable frustration with our People Hub processes, which I have not yet had the time ... well in fact I think I have advised the interim chief executive about this and we really need to do that. The other thing I have done is to put forward a - not just put forward a bid - there are funds in the 2022

Government Plan if Members approve it for what is described as regulatory improvement, which is £750,000. The intention is that those resources will be spread over all the regulatory areas to be able to reduce that backlog. I have to say just permanent staff recruitment is not the only option, we may well have to contract in some contract arrangements with planning officers outside because it is desperate that we are able to do so with the increased volume of planning applications, which is already happening and going to happen even more as a result of the Island Plan.

6.4.1 Senator T.A. Vallois:

With the economic arguments about supply and demand with regards to housing, does the Minister believe that he has sufficient funds to reduce this backlog even over the next 2 years in order to get housing or a pipeline through quicker than what we might see with the bid that he has in the Government Plan currently?

Deputy J.H. Young:

Yes, I thank the Senator for her question. I think the Senator is aware, because we have spoken about this, that the regulatory bid that I put forward to my colleagues in the Council of Ministers, the resource bid to increase it was in fact double the amount that appears in the Government Plan. I asked for £1.5 million. I think this was an intention that we would be able to do that over a number of years and that would effectively give - well I say give a guarantee - nobody can do that but I could feel very, very confident that we can deal with that. As we speak now, there is no question the resources we have got in the Government Plan will be held. Will they do everything, the shortfall on the regulatory side? No, not indeed, the budgets are just far too slim. In 2021 the budget for regulation was a net £372,000 that shows the past priority but it is coming up in 2022.

6.5 Senator K.L. Moore:

What consideration has the Minister given to providing incentives for people to improve the insulation and energy efficiency of their homes?

Deputy J.H. Young:

Yes, I think the focus at the moment in the work of the carbon-neutral roadmap that I have spoken of is focused on reducing carbons. The evidence that I have been presented with so far is that what happens effectively, one does not achieve a carbon reduction - and this seems really strange but I am afraid it is true - by insulation because what happens is people just have warmer homes. What we need to do is to substitute boilers and other heat-producing appliances with other fuels to remove the carbon. So in terms of making priority decisions where we put our money, I think at the moment the boiler replacement has the edge on insulation. Personally I think insulation is a very, very good thing because it gives financial benefits to people but of course what I am also advised is that when we had our programme of insulation of buildings before it was shut down by the previous Council of Ministers, mostly it went on to lower-income households. What the evidence is, I have been told, is that basically it means that those people have been able to heat their homes better and have a more comfortable situation; it did not have the immediate payoff on carbon neutrality. So that is the thinking but we will be able to debate the details of that ...

The Bailiff:

If you could bring your answer to a close, please.

6.5.1 Senator K.L. Moore:

My supplementary was in relation to boilers and what proposals there are in place to encourage the removal of oil-fired and gas boilers in households.

Deputy J.H. Young:

I can tell Members that from the draft that I last saw, there is no question the support for boiler replacements was right up the top of the list in terms of providing a grant scheme. Obviously the details of that grant scheme as to how it is targeted and the money figures and that would need to be discussed.

6.6 Deputy K.F. Morel:

Would the Minister agree that there are areas, particularly the north of town in many residential streets, that are devoid of trees or greenery? If so, could he explain what he is doing through the Island Plan to ensure that where new developments are being created or houses converted that greenery is put in, particularly trees and green spaces?

Deputy J.H. Young:

Yes, I absolutely do agree. I think there are 2 ways of doing this. One, this can be done by planning obligation agreements to generate funding from planning consents as everybody knows that planning consents are very valuable, they produce a capital gain. I think the Island Plan does propose measures to take a share of that and apply it into the public domain but of course on privately-owned sites that can be required as a planning obligation agreement or planning condition. I am certainly relying on the new Island Plan, the details are in that, and then that will be followed up by supplementary planning guidance.

6.6.1 Deputy K.F. Morel:

In my work on the Planning Committee, I have come across many applications in streets particularly, as I say, in the north of town where there is no greenery being put in and, as I said, the streets are devoid. Would the Minister, as he has mentioned planning obligation agreements, undertake to go back to planning officers and ask them to start focusing some of their efforts on seeing where planning obligation agreements or trees and other green spaces can be hoisted, for want of a much better word, on to applications?

Deputy J.H. Young:

Yes, I will give that undertaking. I think I should also flag up for Members that at present our policy is - a States-decided policy - that we would follow the U.K. protocols in their planning system for how planning obligations are used to the extent that effectively they relate to the particular development. But of course I do think that one for a future Minister is to try and widen it out to include offsite infrastructure and a wider approach to planning obligations, including the payment of money to invest in the public domain.

6.7 Deputy M.R. Higgins:

Besides not applying planning and building law consistently and in accordance with the law, your department is also inconsistent in applying enforcement notices. Could the Minister explain why this is the case? There is currently one in place which was ignored a short while ago.

Deputy J.H. Young:

I did not quite get the last part of the question. A planning enforcement notice, what was the problem?

Deputy M.R. Higgins:

An enforcement notice in an identical case to one that previously was not pursued. Why is your department so inconsistent?

Deputy J.H. Young:

If the Deputy will provide me the specific details, because that is a particular question, I will check it out. It is an open secret that we have had a backlog - I think we still have it - of nearly 250

enforcement cases. Obviously the most serious of those are being worked on but that part of the team has had difficulty. But I will follow that up again, the site and the notice; all the notices are on the website.

7. Questions to Ministers without notice - The Chief Minister

The Bailiff:

I am afraid that brings the time available to a close, Deputy, so that is the questions for this Minister finished with for this time. The next questions are posed to the Chief Minister.

7.1 Deputy R.J. Ward:

Does the Chief Minister believe that Jersey has a housing crisis?

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

I am glad to be asked the question. We have definitely a problem. If this is a reference to previous comments as to whether it was a crisis or not, I think there is a lot of focus on the meaning of one word.

[12:30]

Let us be clear, in my view, a crisis is something where we do have a massive problem and no plan. We know we have a problem but we do have a plan and that is the plan that has been published by Deputy Russell Labey as the Minister for Housing and Communities, i.e., there is action being taken. Therefore, let us be clear, we have a problem categorically, but we are taking steps to address that. Part of those steps is making sure that we have a good amount of supply of sites being released to generate a pipeline for supply and that is action that this Government has been taking. There are obviously other points in the Housing Action Plan.

7.1.1 Deputy R.J. Ward:

Can I assume from that that he agrees with his Minister for Treasury and Resources and his Assistant Minister and fellow Alliance Party of Government Ministers that there is no housing crisis in Jersey? Is that what he is telling the young people and the people of Jersey who are finding it almost impossible to find an affordable home?

Senator J.A.N. Le Fondré:

I do not think reference to party politics as such is particularly appropriate in the present Assembly. What I said is that we have a problem and that a crisis is, in my definition, something where we do not have a plan to address that problem. While I know that Deputy Ward and his Reform colleagues love to hype up and generate a lot of noise around vocabulary, what we are focused on is delivering solutions; therefore, by having a plan, that means we address in the longer term the large problem that we do have. In terms of hope for Islanders, this Government, building on work previously done, there are thousands of units in the pipeline for supply over the next 5 and then 10 years. There will also be packages coming together to directly assist Islanders in achieving accessibility to housing. That is why there is a plan; there is no quick fix. If we address that in the debates we are going to have later this week, my concern there is that that will kill supply which then assists the solution. So, in my view, for example, the debates set for later this week have the potential to worsen the problem we face rather than providing a solution to it.

7.2 Deputy M.R. Le Hegarat:

When did the States Assembly decide that Jersey was going to have a casino based at Fort Regent?

Senator J.A.N. Le Fondré:

I am not aware that the States has ever decided not to have a casino at Fort Regent. It is a consultation process that has gone out and by far the plans for Fort Regent were significantly supported by ... and from memory it was a survey of over 2,000 people and on the focus groups. Although the casino is obviously more controversial, a majority of those surveyed were supportive of that. If the Deputy feels that it is something the Assembly should reject, then she is perfectly free to bring a proposition. We do make the point that on all of these, there is always a balance in terms of projects that raise revenue. Particularly in the time of gambling online being accessible to everybody, the argument that gambling on-Island does not happen or should not be allowed to happen I think has moved on. The overall package is designed over a period of time to not be a burden on taxpayers going forward. So if we take one element out of it, we have to replace it with something else.

7.3 Deputy S.M. Ahier of St. Helier:

In the report of Jersey's citizens' assembly on climate change, one of the recommendations was to appoint a Minister for Energy as soon as possible but no later than 2022. Does the Chief Minister intend to appoint such a Minister?

Senator J.A.N. Le Fondré:

I think, to be honest, bearing in mind it is now a matter of basically into months rather than years before this Assembly changes, I would suggest that that would be a matter for the next Council of Ministers and the next Chief Minister. If that is me, I will obviously give it appropriate consideration. We do have to remember the difficulties between priorities versus numbers of Ministers and the Troy Rule, which causes a bit of a difficulty in interactions there. But for me it would be a matter for the next Assembly, the next Council of Ministers and the next Chief Minister.

7.3.1 Deputy S.M. Ahier:

Will the Chief Minister be endorsing any of the citizens' assembly's recommendations?

Senator J.A.N. Le Fondré:

I think the point is that the citizens' assembly's recommendations are being fed into the roadmap which has been developed.

7.4 Deputy G.J. Truscott of St. Brelade:

Could the Chief Minister advise at what point will mask-wearing become mandatory again?

Senator J.A.N. Le Fondré:

I do thank the Deputy for his question and I hope he is recovering. At this stage, we have asked officers for further work to be taking place. We are very much focused, not just on the absolute numbers of positive cases that we are seeing, but on the hospitalisation rate and the projection on that rate. As we have said, we have already made recommendations to start asking Islanders to take certain actions but if I can take the opportunity to put 2 pleas out there to Members, to the media and to the public. One is if you have not yet been vaccinated, particularly at all, or are eligible for your third vaccination and have not yet had it, please, please do so. Perhaps even as importantly, if you are organising or going to a gathering or a party, particularly over the next few weeks, please get a lateral flow test in advance. We had a very, very successful event which you may have been aware of which was commending various members of our workforce for everything they contributed in the last 12 months. It was an event of 400 people, we put the right measures in place, everybody had a fantastic time, and we have had no direct contacts attributed to that event; I emphasise "as yet", it was a few weeks ago now. The point is it can be done, it can be done properly, and that is one of the ways that we are saying that people need to act going forward.

7.5 Senator S.Y. Mézec:

The Chief Minister just explained that Jersey does not have a housing crisis, it merely has a housing problem because there is a plan in place to tackle it. With reference to this plan, could the Chief Minister name 3 tangible proposals within this plan for direct changes which will directly impact on housing affordability? I am asking for tangible proposals in that plan, not proposals to review this or consider that or think about this. Just 3 tangible proposals in that plan that will directly impact on housing affordability.

Senator J.A.N. Le Fondré:

I do not have the full plan in front of me but, as I have already said, in terms of the measures that are in place or have been put in place, increasingly supply sites is a fundamental. We are shortly to be making 2 announcements: one is commitment in the plan about identifying the number of units that will be initially released from government sites. That will therefore, by increasing supply, assist on accessibility and affordability. We have some time ago, it has been emphasised again, been looking at the whole external buy-to-let. That has already been implemented and that was prior to the proposition that put it in place. Obviously there will be a scheme developed of the £10 million that has been put aside which will then be looking at the accessibility of Islanders to schemes to help them to buy. I think that is the 3. I will also make the point there will be a further announcement shortly on some further sites that are being released. I will stop there.

7.5.1 Senator S.Y. Mézec:

He mentioned external buy-to-lets having been implemented. The one tangible policy that was in the so-called action plan was the abolition of share transfer to prevent external buy-to-lets. Could the Chief Minister tell us when that will be in legal effect that share transfer will no longer be an option and buy-to-let by foreign investors will officially no longer be able to take place?

Senator J.A.N. Le Fondré:

I do not yet have the date on that other than officers have been instructed to go away and come back to us fairly swiftly. So, in other words, it is being implemented; I do not yet have the date for (a) if it needs to come to this Assembly and (b) at what point it will do so but we are trying to get that done as swiftly as we can.

7.6 Deputy M.R. Higgins:

In September of last year, the States passed a proposition I brought regarding a digital register of ownership of all commercial and residential properties. I have not heard any more. Will the Chief Minister tell us whether it will be available before the end of this year, which was the intention, or when it will be?

Senator J.A.N. Le Fondré:

I think that is one of the ones where Deputy Higgins rightly brings me to task. I cannot give him a date on it. I will say, and it is not going to be much comfort to him, the discussions do continue on that front quite significantly and where I think it is tying in now is the development of systems under the population side. In essence, my perspective is I do support the proposition that the Deputy brought, to be very, very clear. In terms of the data that we need to provide for managing population, part of that has got to be a record of where people live and obviously who owns where they live, which would then I think fulfil the majority, if not all, of his requirements. That has been discussed. I believe it has been taken on board to be put into the implementation side. I cannot give a date on that. I do also agree that the Deputy should be involved in that work group.

7.6.1 Deputy M.R. Higgins:

I thank the Chief Minister for his answer, even though I am disappointed with it, but can he tell me which Minister he has put in charge of this?

Senator J.A.N. Le Fondré:

In essence, the population side lands with the Deputy of St. Peter. I have also asked the Deputy of St. Peter about a register.

7.7 The Connétable of St. Brelade:

With regard to the Government Plan, would the Chief Minister consider it acceptable that his Ministers have been very dilatory in providing responses to questions from panels?

Senator J.A.N. Le Fondré:

I am certainly aware that there have been one or 2 delays. I know I will be perceived as being guilty on that front as well. There is certainly no deliberate policy behind it. In my case, the questions that came in my direction after a Scrutiny hearing were quite long; there were just under 30. Because one is very clear of respecting the process. I have been wanting to make sure that the level of detail which I finally received on the one day I was here last week before then attending the British-Irish Council was appropriate for the answers that are being put to me. I suspect it is a similar issue in terms of other Ministers. I do believe, in having said all that, that where the alternatives are that briefings have been offered, if we are going back to the comments made earlier today, that usually it is a case that the Council of Ministers probably needs to approve things in certain instances before they have gone to Scrutiny so that there is certainty about what has been agreed upon.

The Bailiff:

I am afraid that brings the time available for questions to the Chief Minister to an end.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Is the adjournment proposed? Very well, the Assembly stands adjourned until 2.15 p.m.

[12:44]

LUNCHEON ADJOURNMENT

[14:15]

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

The Bailiff:

The next item for business is under K, Statements on a Matter of Official Responsibility. The statement is being made by the Assistant Chief Minister regarding the States of Jersey Complaints Board findings of Mr. R. Ahmad's complaint.

8. The Assistant Chief Minister will make a statement regarding the States of Jersey Complaints Board findings of Mr. R. Ahmad's complaint

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

Members may be aware of a complaint made earlier this year by Mr. Rizwan Ahmad following a decision not to grant him entitled for work status. Together with my political colleagues on the Housing and Work Advisory Group, we have considered the findings of the States of Jersey Complaints Board - published under R.137/2021 - and have reviewed the decision not to grant Mr. Ahmad entitled for work status. As chair of the Housing and Work Advisory Group, I have discretion in terms of determining whether there has been a continuous period of ordinary residence in any

particular case. In the case of Mr. Ahmad, this discretion extended to his treatment as a person with licensed status under paragraph 65 of the policy guidance; and secondly, in deciding whether he had maintained Jersey as his home during the period of his extended absence to care for his ill mother. Mr. Ahmad's case highlighted an inconsistency in our policy, which we have since addressed. The need for a person to be absent from the Island to care for a family member should be the same whatever the residential and employment status of the person, and it is that need which should form the basis of assessment as to whether ordinary residency has been maintained. Paragraph 65 of the policy guidance has therefore been amended in order that the policy will now be applicable across all categories of residential and employment status. I would like to confirm to Members that this does not mean treatment of entitled for work only and entitled status individuals should be the same as licensed and registered individuals in every circumstance under the guidance. However, in the case of caring for a family member, it is appropriate to treat people equitably and to apply the same treatment across all categories of residential status. In their report, the States of Jersey Complaints Board raised concern that the policy guidelines are unreasonably restrictive, in that they refer only to caring for a parent or child. I would like to confirm that paragraph 65 of the policy guidance does already state that: "Absences while caring for a person other than a parent or child may be considered on a discretionary basis, subject to the provision of sufficient information regarding the relationship between the person and the other person for whom they intend to care." We feel that is sufficient to cover the breadth of relationships that may exist between an individual and a person that needs essential care. Following a meeting between the Housing and Work Advisory Group and Mr. Ahmad, his case was reviewed and it is accepted that he falls within the criteria set out in the revised paragraph 65 of the policy guidance. He is, therefore, deemed to have remained continuously resident in Jersey from October 2015 to date. Officers have communicated this decision to Mr. Ahmad, and he has been informed of his eligibility now for entitled for work only status. The Government wishes to ensure that all individuals have a right to care for a spouse, partner, family member or dependent who may be in need of essential care. If that requires an individual to leave the Island for extended periods of time, we feel they should not be penalised in terms of their residential and employment status.

The Bailiff:

There is now a period of 15 minutes of questions. Does anyone have any questions for the Assistant Chief Minister? If no one has any questions then that matter is ended and we move on to Public Business.

PUBLIC BUSINESS

The Bailiff:

Before we start Public Business a decision needs to be made about whether to reduce the minimum lodging period in respect of the proposition of the Council of Ministers entitled Assisted Dying, P.95. Chief Minister, do you wish to make the proposition under Standing Order 26(7), the lodging period be reduced to allow this matter to be debated at this sitting?

Deputy G.C. Guida:

I believe the Chief Minister may have delegated this proposition to the Minister for Home Affairs.

The Bailiff:

If that is so, Minister for Home Affairs, would you like to make that proposition?

9. Reduction of lodging period

9.1 Deputy G.C. Guida (The Minister for Home Affairs - *rapporteur*):

I wish to propose that the lodging period be shortened for this proposition.

The Bailiff:

Is that proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? If no Member wishes to speak on this proposition then I am prepared to take it on a standing vote unless someone indicates in the chat they would like a formal vote to be taken. Deputy Ahier, you wish a formal vote to be taken. The proposition is whether or not the lodging period is shortened to enable Assisted Dying P.95 to be debated at this session. A vote pour will shorten the lodging period to enable that to happen. A vote contre will be against. I ask the Greffier to put a voting link into the chat. I open the voting and ask Members to vote. I am sorry, Deputy Southern, I have completely overlooked you. I apologise.

Deputy G.P. Southern:

Could I register a vote pour?

The Bailiff:

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

| POUR: 38 | | CONTRE: 2 | | ABSTAIN: 0 |
|----------------------------|--|----------------------------|--|-------------------|
| Senator I.J. Gorst | | Connétable of Grouville | | |
| Senator L.J. Farnham | | Deputy M.R. Le Hegarat (H) | | |
| Senator S.C. Ferguson | | | | |
| Senator J.A.N. Le Fondré | | | | |
| Senator T.A. Vallois | | | | |
| Senator S.W. Pallett | | | | |
| Senator S.Y. Mézec | | | | |
| Connétable of St. Helier | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Martin | | | | |
| Deputy of St. Ouen | | | | |
| Deputy L.M.C. Doublet (S) | | | | |
| Deputy R. Labey (H) | | | | |

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|--------------------------|--|--|--|--|
| Deputy of St. Mary | | | | |
| Deputy G.J. Truscott (B) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy K.F. Morel (L) | | | | |
| Deputy G.C.U. Guida (L) | | | | |
| Deputy of St. Peter | | | | |
| Deputy of St. John | | | | |
| Deputy S.M. Ahier (H) | | | | |
| Deputy C.S. Alves (H) | | | | |
| Deputy K.G. Pamplin (S) | | | | |
| Deputy I. Gardiner (H) | | | | |

10. Draft Social Security (Amendment of Law - Minimum Earnings Threshold) (Jersey) Regulations 202- (P.79/2021)

The Bailiff:

The first item then of Public Business is the Social Security (Amendment of Law - Minimum Earnings Threshold) (Jersey) Regulations, P.79, lodged by the Minister for Social Security. For the purpose of this debate the main respondent is the chair of the Health and Social Security Scrutiny Panel. This debate resumes following the adoption of the principles on 15th September this year and the referral to the Scrutiny Panel. Minister, how do you wish to propose the regulations? There are 2 of them.

10.1 Deputy J.A. Martin (The Minister for Social Security):

Can I take the regulations *en bloc* please?

The Bailiff:

Are the regulations seconded *en bloc*? **[Seconded]** Does any Member wish to speak on the regulations or any of them in Second Reading? Just reminding Members we are in Second Reading, the principles have already been adopted.

Deputy J.A. Martin:

Do you not want me to speak?

The Bailiff:

Your time to speak, Minister, was when you proposed and you said you wanted them to be taken *en bloc*. You will have your chance to respond of course, Minister.

10.1.1 Deputy K.F. Morel:

Having read the Scrutiny comments and reflecting back on the debate a month or so ago when these regulations were first introduced, I had a great sense of unease then and I maintain that sense of unease today. At its heart what worries me is that we are effectively taxing - I use that word in its wider sense - through the social security contributions some of the more vulnerable members in terms of the economic vulnerability of our community. If I can say an example is quite simply if you are earning £15 an hour, you work for 8 hours, previously that would have been not subject to social security contributions. That is an earning of £120 but now the last £20 will be subject to social security contributions. So people who are not earning large amounts of money will be subject to social security contributions when previously they were not. That seems to me to be a very likely

outcome of this change. So I am concerned that the changes are adversely affecting people who are above income support levels as a family, as a household, but not enough to give them a comfortable living. Beyond that, I then become very concerned when I think through that original debate, and I think about the things that were said then by the Minister and things that were said included things such as: "We have to get this through because employers are expecting it." We have consulted with employers and they are expecting the change to take place on 1st January. On top of that we had another reason, which has been given in the Scrutiny Panel report, which is computer systems have been changed and, as a result of the changes to computer systems, we need to change the law. I am frustrated myself because there was a third reason also given for the change, and I cannot off the top of my head remember that right now, which is frustrating me. So we have had different reasons given by the Minister for this change. The truth is none of them stack up except the final one, which is espoused in the Scrutiny comments which is there was a change of computer systems in Revenue Jersey, the computer systems cannot do it the way we used to do it, therefore we need to change. As the Scrutiny comments have made abundantly clear, this was an officer level decision, which requires a change of statute and that decision was taken without having referred to this Assembly to ensure that that change of statute should happen in advance. I will say it again, I am here in my view to defend this Assembly. This is not an appropriate way to act. It is never an appropriate way to act to essentially make the landscape or change the landscape in such a way that the States are then forced, because that is what is happening today, we are being forced to change the law in order to accommodate changes that are happening within departments to their computer systems. As a result of that change of the law I do believe some families in this Island will be out of pocket. I find that, to be honest, outrageous. I think it is incredibly embarrassing. I do expect to hear the Minister for Social Security give us a very clear reasoning as to why this has happened because I can also say that I have spoken to employers who had no idea this change was happening on 1st January, so the consultation had not got to all employers. All employers were not expecting this change, as the Minister told us in that first debate. Here we are, the reason we are changing this law is for no other reason than they have changed software systems in Revenue Jersey.

[14:30]

That is the whole reason we are changing this law. It is wrong. It is very wrong. It will mean that some more vulnerable households and families in this Island will lose money as a result. It is very difficult to vote for this knowing that those are the reasons behind it. It just feels so very wrong.

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

I rise to speak on behalf of the Health and Social Security Scrutiny Panel as the main respondent in this debate and to remind everybody that I am vice-chair but I do speak on behalf of the panel and would like to thank our officers for their work, especially given the many workstreams that they currently have. I also want to thank the Minister and her department. As I mentioned at the last States sitting, our panel has always had a good, constructive relationship with both the Ministers that we hold to account and we have now arrived at a better place than when we started, as the previous speaker was alluding to. As States Members will recall, when this debate commenced on 15th September we provided a comments paper to Assembly Member colleagues, which at that time raised our concerns. We had some concerns on the reason and the thrust of the proposition being brought. Initially we raised the issue also saying that had we had more time we may and could have done some further work highlighting this and other concerns on some of the data behind the original proposition. This was then echoed by other Members during the in-principle debate, as we know was nearly referenced back. However, as we stated, we called the proposition in to see what further work we could do for States Members in the time for the next debate, which we did, and presented that comments paper, as we promised we would do, on 29th October. Following confirmation that the debate after we did that on the draft regulations was going to be referred to this States sitting our

panel was invited to a joint briefing with the Corporate Services Scrutiny Panel from the Minister for Social Security and Government officers from Revenue Jersey and Strategic Policy, Planning and Performance that took place on 3rd November. It was a pleasure to attend alongside our fellow Scrutiny Members and Senator Vallois, personally I would like to add, has always been inspiring to me on her Scrutiny work and her approach to Scrutiny and holding Government to account. However, during that meeting, based on our research and subsequent questioning, it was confirmed that there had been already a commitment to amending the minimum earnings threshold from an hourly to a monetary calculation, as the previous speaker has already stolen my thunder, by way of software changes made working with the Revenue Jersey computer systems prior to the draft regulations receiving approval by the States Assembly. Both panels were disappointed that these commitments were made prior to the States Assembly Scrutiny process debate and then approval of the draft regulations. We must hold this sort of thing to account every time. We must always uphold the democratic process at all times. Regrettably the panel concludes that the Assembly was then put in a very difficult position during this whole process because of these changes that have already been made in advance but we did welcome the commitment by senior officers at those meetings to review this situation. However, the panel is pleased that the Minister said that she would revise the threshold of the minimum earnings threshold from that which was originally proposed in the report accompanying P.79/2021. The panel notes that the Minister will now set the minimum earnings threshold at £434 per month, or £101 per week, equivalent to 8 times the 2022 minimum wage of £9.22 plus an additional 36 per cent. The Minister is also committed to lodging a further amendment to the Social Security (Jersey) Law 1974 for debate by this States Assembly by the end of February 2022. The amendment will seek to ensure that the automatic uplift to the minimum earnings threshold is protected and is not subject to the will of the Minister for Social Security by order. The Minister asked for the panel's input regarding the 2 possible options to uplift the minimum earnings threshold in future. Following some consideration by the panel we decided an uplift in line with minimum earnings would be preferable and we are pleased to see the Minister's proposals today and in the addendum. A copy of the panel's letter to the Minister is attached to our comments paper that was circulated to Members; all of this is available of course on our website. In conclusion, the panel is of the opinion that the debate about P.79 should have been about the principle of whether the introduction of a minimum earning threshold of monetary value was the right change from a period of 8 days and if so, what the appropriate monetary value of that threshold is for the employees at the lower end of the wage scale with proper consultation, as again the previous speaker alluded to. As stated, one of our original concerns was setting the minimum earnings threshold at 8 hours minimum wage would negatively affect people working at the lower end of the wage scale or those with second incomes. Some of our short, timely, targeted survey work indicated this, showing among other things in that data available to all members in the public, that in the numbers of those people who responded to our survey it was women who would have been impacted the most. The panel maintains the point that there was just not enough up-to-date data to adequately assess the current situation at this time and that similar impact on Islanders needs to be better supported by more up-to-date data as much as possible. We know that the 2021 census data will start to come through next year and we urge as much that can be done to please be done so we can have a grip of what Islanders are going through right now. We also acknowledge further information supplied by the Minister's officers and the independent input provided by Statistics Jersey, as well as other helpful contributions to the panel's work. While the panel still has concerns we accept that the Minister's new approach in setting the minimum earnings threshold, and as confirmed to the panel by letter to us and the addendum presented today, that it seeks to address some of our earlier concerns about the negative impact on low wage earners. The commitment from the Minister to increase the weekly minimum earnings threshold from 1st January 2022 will provide an improvement for the Island as the margins of the contributions threshold in terms of their take home pay. And as the Minister has stated also, that given the importance of the new threshold the Minister for Social Security will return to the States,

as I said, by February 2022 to set the value and annual uplift in the Social Security (Jersey) Law 1974 through regulations. We have asked for the Minister, and I know she will commit to giving sight to that to the Scrutiny Panel in as much time as possible. What this experience has shown and proven once again is the importance of a proper impartial Scrutiny process acting as a critical friend to Government. We had concerns and, in layman's terms, something was not sitting right. We did all that we could do to investigate and bring those concerns and through that process States Members engaged and we are where we are today. At the heart of our work was the Islanders we all represent and for those that this change, if it had not been amended, as is presented today with the Minister's addendum, could have impacted some of our Island's community. The data of the challenge was worthy of the challenge and especially taking into consideration the impact of the pandemic currently, Brexit, the current rising cost of living, and the rise of inflation more so than ever for the year ahead. Also, as I have mentioned, when we got down to it, there had been an assumption, a commitment, to amending the minimum earnings threshold from an hourly to monetary calculation by way of software changes made to computer systems prior to these draft regulations receiving approval by this States Assembly. The mistake was regrettable, in an effort I understand to be efficient, which we also do accept. But again, we welcome the responses by the senior officers on this point. The panel thanks the Minister and her officers for the constructive discussions that have taken place. We are pleased to note that the outcome of the panel's work raised in the Scrutiny process, we wish we had done it a different way but we are where we are. There is more detail in our comments paper reports and online to assist Members in their voting today and I hope that proves helpful.

10.1.3 Deputy R.J. Ward:

Some of the points that have already been made are quite important and I am still ill at ease with this. I suppose there is a context of my being ill at ease, which is that initially I did bring a reference back that was fought against so strongly by the Minister and others but then when we came back to the Assembly the same arguments were used to delay the bringing of this piece of work. That seems to me is a huge contradiction. It does not create faith in us when we are looking at the implications of this. I am not clear at all of how this will affect the lowest paid in our communities. A scenario is there were so many people who are working full-time - 35, 40 hours a week - perhaps on or around the minimum wage who pay their social security contributions but because of the huge expense of living here, particularly if they have a family, they may be working a second job for a few hours a week, and previously it was less than 8 hours and that hourly rate for that less than 8 hours could be a reasonable rate if somebody was taking on a cleaning job, for example, and there were so many who do that as a second job is one example. Who then would not be called into the extra social security contributions for which - and I would like to be proved wrong on this - there is very actual little benefit long term in terms of the pension received for those small extra contributions made now but have a significant effect on the income of that family now when they need the money week in week out. That is one of the concerns that I have. I am worried and we do not know. Again, we simply do not know whether this will drive down the hourly rate of some workers who an employer will say: "Look, if you earn less than £100 we do not have to bother with our contributions, so you are better off anyway so let us just pay you a little less." Which is exactly the opposite direction we want to go in; to have a high wage, high skill, high value economy, which is the only type of economy that is sustainable in the modern world as we move forward. I wonder whether in the rush to make this more convenient for a piece of software, and I do not know why we are serving software and software is not serving us, to be quite frank, I really do not understand that. I thought that software was written for our uses and not the other way round. But what do I know, I am not a software engineer? In the rush to do that I think there are unforeseen circumstances which we have not accounted for. I still feel ill at ease. I am reassured, and I would like the Minister to completely reassure the Assembly, that the rise in the limit of this would be on the average wage each year, so this £100 limit would not stay static for the next 10 or 15 years like so many allowances do on this

Island, and so many things do on this Island, and that has become increasingly more punitive for those working with lower incomes year on year on year, which is a real concern for me. I would still like to have seen this withdrawn, taken back and come back with a lot more work done on it so that we can genuinely understand the long-term implications of this because I do not think we know. The argument for convenience does not sit well with me, however I am pleased to see an improvement in the limit itself. I am still not at ease with this and I would like some reassurance that we do know this is not going to disproportionately affect those in the lowest incomes who can least afford it. Because if that is the case I will not be supporting something that does that in our society.

10.1.4 Deputy J.H. Young:

I was not going to speak but prompted by the previous 2 speakers I would like to put a couple of things on record. Firstly, I am concerned about the political accountability of Revenue Jersey. Clearly there has been an error here where part of our government procedure, a vital one, our tax-raising body, has seen this as purely an administrative matter. But the reality is that taxation policy is a vital part of public sector management and policy setting. The way we set priorities, different groups in society, the way we plan those, and that means that in future I think we are going to need more - I say "we", it will not be me, it will be other Members, Members of the future I hope - will start to look at broadening our tax base. That will mean political choices. One of the things I personally always had a view about is healthcare where I know in our sister island they have arrangements to make sure that people all pay a contribution to that. I would like the Minister for Treasury and Resources to deal with that aspect and let us have a report and her thoughts on the best way in which we can have political accountability of that body because it is not just a straight executive structure. It is not a straight operational matter as if it is just minor, it is of huge importance.

[14:45]

But I do accept at face value a mistake was made. Perhaps I would like to know the reasons for it. Was it communication failures or what in our OneGov system? Then of course our Minister for Social Security is the Minister who is having to bring this, and I can see the position that she has been put in, which is very uncomfortable, and I am sure the Minister will not want to go into all the ins and outs of what brought that situation about. But nonetheless I think what we are now offered is, at first read, it seems to me, a pragmatic solution because my particular concern about the social security issue was that this new arrangement was triggered at the level of the minimum wage. I just could not understand why that was being done. To me it was just unarguable that we should be striving and adopting policies to help the lower paid and have a living wage. Now my understanding - and I hope I have this right and if I have it wrong I rely on the Minister to put me back on track or other Members to point that out - is that the pragmatic solution we are offered now is that that starting point for that rate will be £100 for an 8-hour work period. That is the threshold level which does, I think, work out at minimum wage plus quite a decent add-on of 38 per cent, I think the report said. That seems to be a pragmatic choice. I tend to agree with Deputy Ward that the position of people that do second jobs and third jobs, and so on, the effect on them is unknown. I think the reports are honest enough to say that. We do not know. But we seem to have come to this point where due to what went on within Government we probably have to go with the pragmatic choice and support the Minister because I think one does not want to make a drama out of a crisis, as it were.

10.1.5 Senator T.A. Vallois:

I speak following Deputy Ward's comments. I think it is important to try to understand the numbers that sit behind some of these discussions and the original proposition referred to £66 per week. Deputy Pamplin quite clearly set out the role that Scrutiny have played since the last debate. We are now moving to £101 per week. If we equalise that against the 8 hours you are looking at £8.25, as per the original proposition, to just over £12.50 per hour, if you equalise that to the 8 hours. I think

that is important to make that connection about the decision-making we are making in the States Assembly. But I also have to say that one of the concerns that I do have is this issue of the software dictating what we should or should not be deciding on what is best for our community and best for the public. We have to be extremely vigilant of this going forward with regards to Modernisation and Digital and the use of the cloud-based app. You will see this with regards to the C. and A.G. (Comptroller and Auditor General) report and the recent Public Accounts Committee hearings that we have had. I would suggest going forward being extremely vigilant on the responsibility of a national parliament being first and foremost informed in the appropriate manner before such decisions are made. Finally, what I am going to say to this proposition, I am just going to say thank you to the Minister for hearing the concerns of Scrutiny when we had our follow-up discussions around the order-making powers. I think it is important to make this point, especially as chair of the Democratic Accountability and Governance Sub-Committee of P.P.C. in that Members have to be extremely aware when laws and regulations are being changed to allow Ministers to make decisions that might have originally been made by the States Assembly and consider whether it is appropriate or not. In this particular respect, I am grateful to the Minister for listening to us in understanding the fact that the regulations need to be changed, and I would like to hear her absolute commitment from the Minister in this debate that that amendment will come forward, that there will be a regular uprating of that weekly amount for the minimum earnings threshold, so that it just does not depend on whoever is Minister at the time or it has been forgotten for so many years, as Deputy Ward referred to. So I am grateful for the Minister recognising that and I do look forward to seeing that amendment coming forward.

10.1.6 Senator S.C. Ferguson:

It seems to me we are effectively giving with one hand and removing with another. At the same time we are adopting policies which will significantly increase the demands disproportionately on the income of low-income families. This is totally dysfunctional and unco-ordinated. It really is time that the Council of Ministers starts to co-ordinate its activities better.

The Bailiff:

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

10.1.7 Deputy J.A. Martin:

I am really grateful to everyone who has spoken and I am ever so grateful to the Assembly for letting me not take this last time and speaking to both the Health and Social Security Scrutiny Panel and Corporate Services Scrutiny Panel and bringing them up to date. I absolutely agree with Deputy Morel, we should not be in this place. I take full responsibility. A couple of years ago Revenue Jersey were tasked to do a big piece of work and from January they will collect social security contributions and tax monthly, and it is to help us know better information but it also helps the employers out there, and it should help the employees as well. Obviously this piece of work I think started in 2019 with P.109. As it went on, the piece of kit that was bought does not recognise hours so in the background somebody who thought: "Oh there is a small ..." this goes back to when Social Security was introduced, if you were working a few amount of hours under 8 - it is not 8, it is under 8. If you work 8 you pay - you do not pay any contributions. Now there are not that many people that do that, and I would like to reiterate as well about the lower income. Yes, if you are an income support family it will not affect, if you are a pensioner it will not affect, if you are just doing the one job around that £12 an hour and you do not go over the £100 it will not affect. But there is a down side to not having any contributions at all because you do not pay into anything. You do not get parental benefit. You do not get sick benefit. As you get older you do not get an old age pension, not in your right. But I am not changing that and it is definitely not to do with finding some revenue

for the Social Security Fund. It is probably negative. I do understand. I was saying it was so-and-so's fault; at the end of the day this piece of legislation comes under the Minister for Social Security. I had a really good meeting with Scrutiny. I am bringing back the regulations in February - I will say that to Senator Vallois - because it has to be done. It will be updated every year by the minimum earnings level. It will not sit there and if anybody wants to change it after me it will have to come back to the Assembly. I thank Deputy Pamplin for his comments and, Deputy Young, I understand we are not trying to hit the lowest paid. It is one of those things, my Scrutiny Panel - Health and Social Security - did their review and I understand again what Deputy Morel is saying. But there are lots of people out there who do know, they have been testing this. Unite the Union are very happy with this because they think it will be much easier to have a figure than it is because it is unfair. Some people are paying contributions under the 8 hours, it is how the employer finds it so hard to understand. The Chamber of Commerce thinks it is a very good idea and most of their people already know that it is happening. I cannot apologise enough. It has been 2 years coming and this should have been done. It should have been done in principle a couple of years ago. When actually the kit was bought and then said to the employers out there: "This is the kit you need to tell us once, tell us monthly", and Revenue collect social security contributions as well as tax; I do not know. But it has happened and the kit does not understand the hours. It is, as Deputy Pamplin, to coin his phrase, I am sorry again, but we are where we are. I think to make sure people will be paid in January we have to make this change because the kit has told them to. I am very sorry this has happened. We are taking steps it should not happen again. I cannot apologise enough but I have to maintain the regulations and ask for the appel.

The Bailiff:

The appel is called for. I ask the Greffier to place a vote into the link. The vote is on the regulations in Second Reading. The vote is in the link. I ask the Greffier to open the voting and Members to vote.

Deputy G.P. Southern:

I register a vote contre.

Deputy L.B.E. Ash of St. Clement:

Deputy Ash here, pour.

The Bailiff:

Deputy Ash is there any reason why you cannot register that vote into the chat?

Deputy L.B.E. Ash:

Only that I cannot get into it at the moment. Like yourself, I am a bit of a Luddite but I am trying to remedy it and will reboot myself in a minute.

The Bailiff:

Very well, I will take that as your indication of a vote then. Members have had the opportunity of casting their votes I ask the Greffier to close the voting.

Male Speaker:

Sir, Deputy Renouf does not appear in the chat, I do not know if that is my system.

The Bailiff:

No, the Deputy of St. Ouen is singularly absent from the chat.

The Deputy of St. Ouen:

May I still vote?

The Bailiff:

Of course you can, yes. Given that you had indicated that you had voted. Yes, there we are. I am afraid we cannot change a vote that is registered when I have closed the voting. So we have had a ring-binder moment, we might have had a bracelet moment. The regulations have been adopted in Second Reading:

| POUR: 36 | CONTRE: 8 | ABSTAIN: 1 |
|----------------------------|----------------------------|-----------------------|
| Senator I.J. Gorst | Senator S.C. Ferguson | Deputy K.F. Morel (L) |
| Senator L.J. Farnham | Senator K.L. Moore | |
| Senator J.A.N. Le Fondré | Connétable of St. Lawrence | |
| Senator T.A. Vallois | Deputy G.P. Southern (H) | |
| Senator S.W. Pallett | Deputy M.R. Higgins (H) | |
| Senator S.Y. Mézec | Deputy L.M.C. Doublet (S) | |
| Connétable of St. Brelade | Deputy of St. John | |
| Connétable of Grouville | Deputy R.J. Ward (H) | |
| Connétable of Trinity | | |
| Connétable of St. Peter | | |
| Connétable of St. Mary | | |
| Connétable of St. Ouen | | |
| Connétable of St. Martin | | |
| Connétable of St. John | | |
| Connétable of St. Clement | | |
| Deputy J.A. Martin (H) | | |
| Deputy of Grouville | | |
| Deputy K.C. Lewis (S) | | |
| Deputy J.M. Maçon (S) | | |
| Deputy S.J. Pinel (C) | | |
| Deputy of St. Martin | | |
| Deputy of St. Ouen | | |
| Deputy R. Labey (H) | | |
| Deputy S.M. Wickenden (H) | | |
| Deputy of St. Mary | | |
| Deputy G.J. Truscott (B) | | |
| Deputy J.H. Young (B) | | |
| Deputy L.B.E. Ash (C) | | |
| Deputy G.C.U. Guida (L) | | |
| Deputy of St. Peter | | |
| Deputy of Trinity | | |
| Deputy M.R. Le Hegarat (H) | | |
| Deputy S.M. Ahier (H) | | |
| Deputy C.S. Alves (H) | | |
| Deputy K.G. Pamplin (S) | | |

| | | | |
|------------------------|--|--|--|
| Deputy I. Gardiner (H) | | | |
|------------------------|--|--|--|

The Bailiff:

Do you propose the regulations in Third Reading, Minister?

[15:00]

Deputy J.A. Martin:

Yes, Sir, I propose the regulations in Third Reading and thank everyone who voted.

The Bailiff:

Are those seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then I ask the Greffier to post a vote into the chat. I open the voting and ask Members to vote. If all Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

| POUR: 34 | | CONTRE: 8 | | ABSTAIN: 0 |
|---------------------------|--|----------------------------|--|-------------------|
| Senator I.J. Gorst | | Senator S.C. Ferguson | | |
| Senator L.J. Farnham | | Senator K.L. Moore | | |
| Senator J.A.N. Le Fondré | | Connétable of St. Lawrence | | |
| Senator T.A. Vallois | | Connétable of St. Martin | | |
| Senator S.W. Pallett | | Deputy M.R. Higgins (H) | | |
| Senator S.Y. Mézec | | Deputy L.M.C. Doublet (S) | | |
| Connétable of St. Brelade | | Deputy of St. John | | |
| Connétable of Grouville | | Deputy R.J. Ward (H) | | |
| Connétable of Trinity | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy of St. Ouen | | | | |
| Deputy R. Labey (H) | | | | |
| Deputy S.M. Wickenden (H) | | | | |
| Deputy of St. Mary | | | | |
| Deputy G.J. Truscott (B) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy L.B.E. Ash (C) | | | | |
| Deputy K.F. Morel (L) | | | | |
| Deputy G.C.U. Guida (L) | | | | |

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|----------------------------|--|--|--|
| Deputy of St. Peter | | | |
| Deputy of Trinity | | | |
| Deputy M.R. Le Hegarat (H) | | | |
| Deputy S.M. Ahier (H) | | | |
| Deputy C.S. Alves (H) | | | |
| Deputy K.G. Pamplin (S) | | | |
| Deputy I. Gardiner (H) | | | |

11. Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law 202-(P.83/2021)

The Bailiff

We come on now to the Draft COVID-19 (Enabling Provisions) (Amendment No. 3) (Jersey) Law, P.83, lodged by the Minister for Health and Social Services. For the purposes of this debate, the main respondent is the chair of the Health and Social Security Scrutiny Panel. Now, this debate is resuming following the decision of the Assembly to refer the matter back to the Minister on 8th October and in accordance with Standing Order 86(b), Minister, you may propose the proposition afresh if you wish to. Do you wish to propose the principles again?

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

Following the reference back made by Deputy Tadier during the initial debate on this draft law on 8th October, I have submitted an addendum to the proposition which I hope all Members will have had an opportunity to consider. Members will see that it seeks to answer the questions posed during the debate to the extent that the Government is able to do so. A States Members’ briefing was also held last Thursday to assist with any other questions that may have risen. I regret that Deputy Tadier, I do not believe, is not in the Assembly at the present time and our thoughts are with him. Members will see from the addendum that we have explained the issues with modelling the future spread of COVID in some detail. I am sure Members would have preferred to have a simple outline as to the anticipated future path of the pandemic but I am afraid that is just not possible given the unknown effects of all the various interactions between the different factors in play. Even larger jurisdictions, such as the U.K., with far greater capacity to conduct modelling exercises, do not pretend that they can make anything other than very short-term predictions and the complexity of such predictive work increases with every new mitigation in place. In particular, because the vaccine programme has been immensely successful in reducing the spread of COVID it has had significant effects on modelling efforts. Although we are not in a position to make any meaningful projections as to the precise severity or timing of peaks of infection, we can draw some general assumptions on expectations for winter based on currently available data, past experience and the work done in other jurisdictions. The current projection is that we will see a rise in COVID infection over the winter due to the usual changes in people’s behaviour, primarily because we will spend more time indoors, in close proximity to each other. It is likely that the usual patterns of intergenerational mixing resulting from extended families coming together over the festive season will also see a spike in cases after some delay, but the effects of this cannot be effectively modelled. However, drawing on the analysis from the advisory body, the Scientific Pandemic Influenza Group on Modelling, or S.P.I.-M.-O. in the U.K., we anticipate that due to the vaccination programme overall levels of COVID hospitalisations will remain significantly lower than in January 2021 unless we see both a rapid increase in transmissions rates and unexpected waning of vaccine protection. This does not mean that we should be blasé about the risks over winter as all of the positive drivers of COVID infection are also likely to cause an increase in the levels of infection of other respiratory diseases as well. That could create

confusion around whether people have COVID as well as putting additional pressure on our healthcare system. Therefore, the best available information at this time indicates that while the situation is highly uncertain we may see increased infection over winter and so there may be a need for additional measures to be introduced in response. This uncertainty and the resulting need to maintain vigilance are the rationale for maintaining our capacity to introduce preventative measures into 2022. That is why I am asking the Assembly to extend this COVID enabling law following the decision to extend the suite of COVID prevention powers that was taken on 8th October when it approved P.84. Those were the detailed regulations, such as those relating to testing and isolation, the taking of contact details in venues and many regulations which are presently suspended but they are still available for use if it became necessary. Mask wearing would be one example of that regulation presently suspended but still available. This proposition, P.83, concerns only the extension of the COVID-19 (Enabling Provisions) (Jersey) Law to 31st July 2022. This law is a short law, it effectively is the Privy Council permission to this Assembly to make emergency laws to protect public health without the need of the sanction of the Privy Council because of the emergency situation and for a limited length of time. The function of the enabling law is to ensure that we retain the capacity to manage our legislative framework and that enables decisive action when it is needed but it also restricts Islanders' liberties as little as possible. Now that P.84 has been adopted, the duration of the legislation of the detailed regulations run to 30th April 2022, which falls beyond the end of the current enabling law, which in fact ends a month earlier on 31st March 2022. The enabling law should overlap the other legislation and it currently does not. As Members will be aware, if the enabling arrangements were to expire no new emergency regulations and no order under the existing regulations could be made after 30th April with immediate effects on the control of COVID-19 if we needed at that time still to exert controls. During the previous debate there appeared to be some consternation around the extension of the enabling law beyond the election and I apologise that the accompanying report did not sufficiently address that issue and I will attempt to do so now. In all previous arrangements for the extension of our COVID legislation, and we have extended 3 times, the regulations have been extended either in active form or extended when suspended but still available, and the enabling law has also been extended at the same time. In every one of those cases the enabling law has been extended beyond the duration of the regulations. In today's case it is proposed we extend the law to July 2022. It is necessary to extend to that date because there is a built-in delay to any decision around any further extension of the law. If there is a desire to further extend the COVID legislation in March or April next year, and I recognise that there may be or may not be, then the Assembly can vote on the regulations and they come into almost immediate effect. There is no intermediate process involved and the change follows automatically on the timeline specified by the regulations. But where the Assembly votes on an extension to the enabling law the situation is different as it is a change to primary law. Although the legislation only consists of the substitution of one date for another it must be passed through the Privy Council process for Royal Assent and then passed back to the Island for registration in the Royal Court before it can take effect. We cannot be absolutely certain of the time needed to take those steps. So although the speed of gaining Royal Assent has been increased in recent years, there is precedent for it taking several months and it is dependent on the date on which Privy Council meetings happen to fall. The Council of Ministers have taken the position on each occasion that it is appropriate to bring the enabling law to the Assembly at the same time as the detailed regulations. This is intended to allow Members to take a view of the entirety of the pandemic legislative arrangements in the same session and to avoid the confusion that would arise if we brought the enabling law extension separately. Previously that was not a point of contention among Members but it happened that on 8th October it was so the reference back was made and today we are debating only the enabling law, which extends a date, and not the detailed regulations in themselves. I have explained about the need to go to the Privy Council and that delay and so to accommodate that delay the enabling law runs for a longer period than the regulations. For safety and to avoid unfortunate accidents, the enabling law usually runs for about 3

months longer than the regulations. So there is, therefore, no intention to allow the COVID legislation to proceed over the election period without another debate in this Assembly. The regulations themselves are timed to expire at the end of April next year before the election. So if the Council of Ministers consider the situation requires a further extension then the debate on that proposition will need to take place before the end of April. Whatever the Assembly decides at that time, it will not be possible to have any of the COVID regulation in place beyond July 2022 without extending the enabling law. So, by necessity, Members will also be required to consider an extension to the enabling law before the end of April. The actual moment on which the enabling law changes will be determined by the Privy Council meeting dates, hence the law running for several months longer. But any decision in this Assembly on further extending the enabling law will be taken before the end of April. So I am sorry this is rather complex and detailed in procedure but in summary only by allowing the enabling law to run longer than regulation can we allow the Assembly the chance to extend it in April next year. The July date does not prejudge any decision of the Assembly and nor does it indicate that any restrictions will be in place at that time. If the Assembly does not agree to extend the COVID preventative legislation before the end of April or if the Council of Ministers does not propose such an extension, then the regulations will simply fall away at the end of April because that is what we have said would happen in the regulations. If that happens the enabling law will remain in force in the background but it will not have any effect. All it does is to allow the Assembly to make regulations that act as primary law without needing to go through the Royal Assent process on every occasion.

[15:15]

That power would remain in force until July but nothing could be done with it except to bring regulations to this Assembly. That was perhaps the first issue that was raised by Deputy Tadier, the other 2 I can deal with more shortly, I think. The second issue raised in the reference back was the question of the human rights statements. I hope that the addendum I have lodged explains that the subject of this immediate proposition is a change in the date of the enabling law which is currently in force. Simply by changing a date that does not, in itself, create an issue of human rights. The underlying consideration around human rights are addressed in a statement of compatibility for the original proposition passed in 2020 and there was a link to that in the accompanying report to P.83. Likewise, issues of financial or manpower implications under Standing Order 21 are not engaged by us changing the date. There are, of course, resource issues arising from the pandemic response but these are identified in the normal way in the budgetary reporting of Government. No one is in a position to say at this point what the costs will be over the next 6 months due to the uncertainties I have referred to. Deputy Tadier also raised in his reference back what engagement there had been with industry. Ministers have heard from businesses directly and through groups established for the purpose as well as arm's length bodies. Businesses are fully aware of the contents and the effect of the planned winter strategy and that has been discussed with them in a business group established under the name of Safer Jersey Group. Recently I have been pleased to work with business in keeping Jersey in business. Ministers are fully aware of the economic effects of retaining COVID controls and those effects are taken into account whenever a decision is made. I hope that between the addendum published last week, the States Members' briefing and this rather involved speech today I have been able to provide Members with enough information to continue this debate on the enabling law, but I will of course try and answer all other questions.

The Bailiff:

Thank you very much, Minister. Are the principles seconded? **[Seconded]** A question has been raised in the chat by Deputy Ward as to whether it is appropriate to remove masks more generally in the Assembly. I gave a direction that masks should be worn because we did not at that time know how many Members were going to come and be in the Assembly. It occurs to me, looking around,

that with a little bit of movement it would be possible for everyone to be at least 2 metres distanced if they wish and I will be minded, unless Members feel strongly to the contrary, to make the wearing of masks optional from now on given the temperature and the discomfort. I am not indicating but I wonder if any Member in the Assembly would like to comment or make any observations to the contrary?

The Very Reverend M.R. Keirle, B.A., Dean of Jersey:

I wonder if I might. I do wonder whether we really ought to be setting an example with the numbers going up. I am sitting here, I am pretty uncomfortable in this mask but I do wonder whether as States Members we really ought to set a good example and keep them on. That is my own view.

The Bailiff:

Thank you very much. Does anyone else have any observations to make on it?

The Connétable of St. Brelade:

Likewise, I think we do risk criticism. I do not know if this sitting is broadcast.

The Bailiff:

It is broadcast in the normal way. I am not urging that we do but it has been raised in the chat as a possibility so I just wish to give people the opportunity of considering it.

The Deputy of St. Ouen:

Simply to say I share the view of the 2 previous speakers.

The Bailiff:

In which case I think that does appear to be that. Deputy Ward raised it perfectly reasonably within the chat. I have canvassed the views of Members.

Deputy R.J. Ward:

It was a genuine question.

The Bailiff:

They are fairly clear and we will proceed as directed with the points well made. Very well, does any Member wish to speak on the principles. One moment, we need to take these things properly in order, Deputy Ward, you had a question for the Attorney General, I believe.

Deputy R.J. Ward:

In a briefing that we had I did ask a question that was answered by the officer very well but he was going to come back to us and I have not seen that. I may have missed it so I apologise if I have. The law is extended until the beginning of August and I understand if the regulations drop away then effectively we have a law in the background with no regulations. Because the big difference is that we are going into an election campaign and a time of purdah, that time when there is not an Assembly sitting - I think it is a question for the A.G. (Attorney General) - what is the mechanism by which if Ministers who would still be a Minister believe that there are some regulations needed at a time when we are all not in this Assembly, because the law is in the background, would that require a recall of the Assembly? Just the advice from the A.G. on where we sit with that law being in the background with possibly nothing there. I think it is important for us to know about that, for that specific time around election time.

The Bailiff:

It may assist if I say, Deputy - and I will call on the Attorney General in just a moment - on my recollection the law provides that I am in a position if there is an urgent reason to do so to call a meeting of the Assembly. I think that is the case but, Mr. Attorney, do you have anything you wish to say?

The Solicitor General:

It is the Solicitor General. Just to make this point. The only power that the enabling law creates to enact regulations is a power that it is given to the States Assembly. It is not given to a Minister or any individual Member, therefore if there were a need perceived by a Minister to resurrect regulations under the enabling law there would have to be an emergency recall of the Assembly to vote on that. It could not be done by a Minister on his or her own initiative.

The Bailiff:

Thank you. Senator Vallois, you had a point of order?

Senator T.A. Vallois:

Yes, I would just like to get clarity from yourself if possible. I listened intently to the Minister's speech. My understanding of the reading of the proposition is we would be agreeing to the extension of the enabling law until 31st July, what he stated in his speech suggested otherwise. I just would like to seek clarification from yourself as Chair as to what it is we are actually agreeing or not agreeing in this States Assembly debate.

The Bailiff:

You are agreeing one thing only in this debate, if you pass this enabling provision legislation you will be extending the effect of the enabling provision laws to 1st August next year, in other words it would end on 31st July. That is the only thing that would be agreed, nothing else would be agreed. The specific underlying legislation, which has been created under the umbrella of the enabling legislation, falls to be considered on other dates and on other occasions.

Senator T.A. Vallois:

Thank you very much, Sir.

11.1.1 Deputy J.H. Young:

I think absolutely this is essential that we have this in place, there is no question. If one reads the addendum, what comes out loud and clear is uncertainty. None of us know at all. There are models but there can be no predictions, there are so many variables and not to have this piece of legislation when we are told these social measures have been critical, probably more effective compared with vaccination in actually controlling this awful disease. We need these tools. My question to the Minister, I would like to be assured on this because it seems to me that as we go into the next year we are squeezed for States sittings; really squeezed. I, myself, have real concerns about the Island Plan, that will probably take up a huge amount of time in March. We have one sitting in April, as I understand it, before we hit the purdah date and then, of course, we are going to go through a massive period of uncertainty about formulation of the new States. Who is in it and what have you up until 22nd of June and yet this law here ... the Minister said we do not know when the Privy Council will approve this and until we get Privy Council approval we will not be able to bring in the regulations here. I want to be sure that we have contingency plans to make sure we have the capability to be able to manage this situation in the future. I am absolutely 100 per cent behind this but I do wonder is the date even enough. It is what we have in front of us, that is a choice we have. That is the only choice but I would like some assurance from the Minister that they are on to this.

The Bailiff:

It might be helpful to remind Members that when the COVID legislation was passed it was passed during a lot of meetings especially requisitioned outside the normal run of States meetings and, of course, there is no problem with a requisition suitably backed to create States meetings that are not on the list at the moment. I simply mention that as a reminder to Members. There has been an indication in the chat, I think, or elsewhere that when Members are speaking they are breaking up. That might simply be one recipient who is experiencing difficulties. Could Members indicate in the chat whether they have problems listening, those who are not listening here? It seems to me that the problem is not with everybody so I will just ask people to make sure that when they are speaking they are speaking as clearly as they can and if important matters are breaking up then please would people indicate within the chat. Most people are saying it is fine. We will continue.

11.1.2 Deputy K.F. Morel:

I do not like the extension, I do not want the extension but I do not think we have much choice except to go with the Minister on this. By saying I do not think we have much choice I do not mean that in a gun to the head or we have changed our systems and therefore we need to change the law kind of way, I mean that because the pandemic is forcing us into this, it is a lingering pandemic. We, this year, have experienced a much better quality of life in Jersey compared to last year and compared to many countries around the world, for that I am thankful. It has been easy and, to be honest, the Dean just reminded us as well that when you are in a pandemic we need to, as States Members, set an example as well in different ways. Precisely because people are forgetting that, I think. It is very easy to forget from this Island that we are part of the wider world and the wider world is suffering in a pandemic. Another element that I have said before, and I will happily say again, is that to date on matters of COVID regulations the Minister for Health and Social Services has shown himself to be very happy to remove the regulations when they are not needed. We have seen that demonstrated over the past year and a half. I think that is very important and, to be honest, it plays a lot into my thinking with regard to how to vote on this because I think we can trust the current Minister for Health and Social Services to remove regulations when they are not needed. As a slight aside, I do not think the competent authorities should be sitting in the way that they are now. I think that that element of the democratic process needs to be restored to just solely the Council of Ministers. I think there is a lack of democracy in that and I really think it is incumbent now on the Chief Minister to dissolve the competent authorities, it is looking a bit like a power grab now. As far as these regulations are concerned I think that we have to go with this. I doubt any of us here want to do this but as we saw with protests this morning, there are people who feel very strongly about, quite understandably, the taking away of people's freedoms, they feel very strongly for whatever reasons about the vaccinations. But we can see how vaccinations have protected this Island to a greater extent.

[15:30]

We are entering winter when people like me need to probably get a booster and if I do not I will be making the Island slightly, just a tad, less safe as a result. So I will get that at some point soon. We do not know what will happen over the winter. Europe is experiencing rises in COVID infections, U.K. is experiencing rises in COVID infections, Jersey is experiencing rises in COVID infections, thankfully so far they are not translating into hospital admissions particularly and they are not translating into more deaths. It is particularly the deaths element. We have had 80, that is 80 too many, and I do not want to see that number climb. I think we have to place our trust in the hands of the Minister for Health and Social Services on this. As much as we do not want to, and that is in no way against the Minister for Health and Social Services, it is just we do not want to have to do this but we really should, I believe.

11.1.3 The Connétable of St. John:

I would like to start by echoing the comments of Deputy Morel in terms of the competent authorities Ministers. My belief is the same as Deputy Morel's and it should be stopped I believe. We are not in an emergency currently, it is about business as usual. I thank the Minister for the notes that he circulated. Unfortunately the briefing on Thursday was scheduled at the same time as the Scrutiny briefing on the hospital so unfortunately I was unable to attend, but I note from those notes that the S.T.A.C. (Scientific and Technical Advisory Cell) minutes are now being circulated to Scrutiny and I would urge him, as was indicated when we had a new chair who was less busy than the previous chair that they would come in a more timely manner. For us to take the public with us through the winter we need to rely on good, open communication and having S.T.A.C. minutes in a timely manner, not 8, 9 or 10 weeks' delay will only help us to take those people. Last week we were hearing about what was going to be happening with youngsters in terms of vaccination and if we had been able to read the S.T.A.C. minutes we would have been able to support those views in a much easier manner rather than question them. I urge the Minister, once again, to publish S.T.A.C. minutes in a much more timely fashion.

11.1.4 Deputy K.G. Pamplin:

I rise to echo the words of the previous speaker, it was a very good proposition that came before this Assembly that helped in that regard. On a more serious matter, I echo the words of Deputy Morel as somebody who has been leading the Scrutiny of the health legislation throughout this whole process, this is a technical point as the Minister has helpfully outlined and I think the Solicitor General made a very helpful simplification of what this absolutely just is. It is essential that we recognise that, of course, and I do not like to do it, but I need to take Members back to March 2020 because, as I have often said during this whole process, a crisis exposes everything. You cannot run and hide from it. One of the things this pandemic has exposed is things that we do know about this Island, our community spirit and the sense of the public doing what is required to look out for members of society and help us to keep this Island going. It did, in a more political sense, expose how out of date our public health law was and led us to those emergency briefings back under the dome of Fort Regent, which now is the vaccination centre, which is quite mind-boggling. It gives you a sense of what has happened in a short period of time. But the reason why we are doing that and turning Scrutiny around on a hoof is because the law was not fit for purpose. We should not in 2021, as a democratic jurisdiction, be in that situation again. The public consultation about the public health law is important and the lessons learnt from this pandemic is so crucial, and there are members of the public who are obviously quite rightly concerned and it is good they are being part of the democratic process. It will be for the next Assembly to continue that process but we must not lose the lessons learnt from the pandemic and we must ensure that these things are picked up because we should not be in this position going forward. That is where we are today, it is a technical point and I just wanted to make those points.

11.1.5 Senator T.A. Vallois:

Just on the basis of the point of order that was made and the comments that have been made so far, I think there is a duty upon the Assembly to hold to account the power that Ministers hold. This enabling law is going to be extended to the beginning of August so I feel I need to speak to challenge the Minister for Health and Social Services in some of the comments he made and some of the comments I have heard from others in terms of what that means for the winter period. As I understood it, June, July and August do not tantamount to a winter period and also I would criticise and challenge the Council of Ministers around the strategies in which they are currently imposing and suggesting are the appropriate way to do things, but also arguing that having those powers and those enabling powers but yet not using them it ... sometimes I feel like when we are having these types of debates we are kind of giving too much leeway without the appropriate accountability. I would like the Minister for Health and Social Services to explain at what point does it get to where some of the

provisions which enabled this enabling law are actually put into place. These are questions the public asked many times. All the time, the impact on their business and the impact on schools, the impact on how to provide a service generally, especially when there are things like P.C.R. tests or whatever that might be that is going on during a particular height in numbers that we see. Nobody knows the future of COVID and this is managing an issue that we have. Sir, you have stated quite eloquently the provisions of the Assembly to enable an emergency meeting if it is deemed appropriate to do so. I would suggest that unless we have an appropriate strategy that suggests how Ministers are going to utilise these types of powers in the appropriate fashion and in the appropriate way then I am not supportive of the enabling provision. If they can create the evidence and the supportive data to suggest that we need it up until 1st August then I am more than happy to listen to that, see that information and be convinced otherwise, and have an emergency sitting if it is deemed appropriate. At this point in time I cannot support the proposition.

The Bailiff:

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

11.1.6 The Deputy of St. Ouen:

Thank you. I am grateful to Members. Deputy Young spoke and expressed concern that we are being squeezed for States sittings before the election period. It remains the case that we can debate at any time whether we should renew the COVID legislation but I think it is more likely to be during March or April. We will simply have to find time if the Council of Ministers believe that we need to extend beyond the expiry date of April or if any Member wishes to propose the extension of regulations. But we will be able to manage, I am so advised, the process relating to the Privy Council. We will have that power to make regulations, if the Assembly agrees today that power will extend to the end of July. Any regulations that we might make in March or April would last to that end period at the very least and we debated any further extensions to the enabling law then it could go beyond. But it does simply depend on the circumstances that we will assess during the first few months of next year. I am advised that we do have capability to manage it. We will obviously need further debates if the COVID situation warrants further controls but the timing is all feasible. Deputy Morel made some excellent points. I absolutely agree with him and other speakers that we would not want to have this sort of legislation in normal times and insofar as they create exceptional measures of control I and other Ministers will always try and make sure that that is only where it is necessary to prevent the spread of COVID. Some people have talked about a power grab, I simply do not see it as that. I would prefer not to have these powers, I would prefer to be a Minister for Health and Social Services concentrating on the delivery of health services rather than managing a pandemic, quite frankly, but it has arisen during our term of office. To the Connétable of St. John, I think I can only refer to my previous answers to written questions that he has asked, which relate to the process of minutes. It is not something that I have total power over, although I will speak again with the chair of the independent advisory body, and there is a need for a process to be undertaken, which has been explained to the Connétable. Deputy Pamplin referenced the out-of-date public health law that we have at the present, which just would not have been adequate to cope with this pandemic emergency. Work is going on, it is quite advanced on the preparation of a new public health law which will probably come before the next Assembly after the elections but there will be a second stage consultation before then and I hope all States Members will engage as well as members of the public. Senator Vallois, I quite understand the stance she is taking. We would all want to have a precise model that tells us where we will be going. I have covered this in the speech, the addendum covers it, the reasons why it is just not realistic to set out a model and say: "This is the likelihood" because there are so many factors in play. So, therefore, perhaps regrettably, we need to retain these powers to introduce measures to control the spread, to prevent harm to our community at short notice. But,

of course, those powers have been given to Ministers by this Assembly in the relevant regulations that are passed by this Assembly. If any Members thought it was no longer appropriate to allow Ministers to have that order making power then a proposition can be brought to that effect or on making an order that can be challenged. These powers are lent, I think, to Ministers, they are not a power grab. This Assembly has made the regulations under which they are made and this Assembly controls those regulations. We have issued a winter strategy, Senator Vallois challenged us on our strategy. It goes beyond the scope of this immediate debate perhaps to go into a lot of detail but it is written out there. We want Islanders to take responsibility for themselves in keeping themselves and their loved ones safe as far as possible by adopting measures that they can easily take. The vaccination is the most important protection that people can give to themselves and our community. But in addition to take the lateral flow tests whenever they are mixing with people, going into large crowds, to be careful about the occasions they do that, to wear masks in crowded indoor spaces and so we are not using those powers. Our strategy is not to mandate those powers, not to bring the heavy hand of the law down at this stage but, of course, the position is constantly under review and we receive advice from S.T.A.C. and public health officers - and again our strategy references this - so if it became necessary, mainly because of increasing rates of hospitalisation that might imperil our health services, we could use these order-making powers and mandate, for example, mask wearing or other regulations. We are not there at the moment.

[15:45]

I really hope Islanders will choose to protect themselves and make sure this Island can get through the winter differently to what we did last winter, because it can be done if we get good adherence to guidance. Otherwise I thank all Members that have spoken. I think I have covered all the points and I maintain the principles and ask for the appel.

The Bailiff:

I ask the Greffier to place a voting link into the chat. I ask the Greffier to open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The principles have been adopted:

| POUR: 34 | | CONTRE: 9 | | ABSTAIN: 0 |
|----------------------------|--|---------------------------|--|-------------------|
| Senator I.J. Gorst | | Senator T.A. Vallois | | |
| Senator L.J. Farnham | | Senator K.L. Moore | | |
| Senator S.C. Ferguson | | Connétable of St. Brelade | | |
| Senator J.A.N. Le Fondré | | Connétable of St. Martin | | |
| Senator S.W. Pallett | | Connétable of St. John | | |
| Senator S.Y. Mézec | | Deputy M.R. Higgins (H) | | |
| Connétable of St. Lawrence | | Deputy L.M.C. Doublet (S) | | |
| Connétable of Grouville | | Deputy S.M. Ahier (H) | | |
| Connétable of St. Peter | | Deputy I. Gardiner (H) | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy J.M. Maçon (S) | | | | |

| | | | |
|----------------------------|--|--|--|
| Deputy S.J. Pinel (C) | | | |
| Deputy of St. Martin | | | |
| Deputy of St. Ouen | | | |
| Deputy R. Labey (H) | | | |
| Deputy S.M. Wickenden (H) | | | |
| Deputy of St. Mary | | | |
| Deputy G.J. Truscott (B) | | | |
| Deputy J.H. Young (B) | | | |
| Deputy L.B.E. Ash (C) | | | |
| Deputy K.F. Morel (L) | | | |
| Deputy G.C.U. Guida (L) | | | |
| Deputy of St. Peter | | | |
| Deputy of Trinity | | | |
| Deputy of St. John | | | |
| Deputy M.R. Le Hegarat (H) | | | |
| Deputy R.J. Ward (H) | | | |
| Deputy C.S. Alves (H) | | | |
| Deputy K.G. Pamplin (S) | | | |

The Bailiff:

Deputy Le Hegarat, does your Health and Social Security Scrutiny Panel wish to scrutinise the matter?

Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):

No, thank you.

The Bailiff:

Very well. How do you wish to propose the Articles in Second Reading, Minister; there is only 2 of them?

11.2 The Deputy of St. Ouen:

Yes, there is a very simple amendment. The first Article extends the operation of the law until 31st July next year and the second Article is the usual provision for citation. I will propose them *en bloc*.

The Bailiff:

Are they seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading then there shall be no debate and I ask the Greffier to place a vote into the link. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The Articles have been adopted in Second Reading:

| POUR: 34 | | CONTRE: 8 | | ABSTAIN: 0 |
|--------------------------|--|--------------------------|--|-------------------|
| Senator I.J. Gorst | | Senator T.A. Vallois | | |
| Senator L.J. Farnham | | Senator K.L. Moore | | |
| Senator S.C. Ferguson | | Connétable of St. Martin | | |
| Senator J.A.N. Le Fondré | | Connétable of St. John | | |

| | | | | |
|----------------------------|--|---------------------------|--|--|
| Senator S.W. Pallett | | Deputy M.R. Higgins (H) | | |
| Senator S.Y. Mézec | | Deputy L.M.C. Doublet (S) | | |
| Connétable of St. Lawrence | | Deputy S.M. Ahier (H) | | |
| Connétable of St. Brelade | | Deputy I. Gardiner (H) | | |
| Connétable of Grouville | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Martin | | | | |
| Deputy of St. Ouen | | | | |
| Deputy R. Labey (H) | | | | |
| Deputy S.M. Wickenden (H) | | | | |
| Deputy of St. Mary | | | | |
| Deputy G.J. Truscott (B) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy L.B.E. Ash (C) | | | | |
| Deputy K.F. Morel (L) | | | | |
| Deputy G.C.U. Guida (L) | | | | |
| Deputy of St. Peter | | | | |
| Deputy of Trinity | | | | |
| Deputy of St. John | | | | |
| Deputy M.R. Le Hegarat (H) | | | | |
| Deputy R.J. Ward (H) | | | | |
| Deputy C.S. Alves (H) | | | | |
| Deputy K.G. Pamplin (S) | | | | |

The Bailiff:

Do you propose the matter in Third Reading?

11.3 The Deputy of St. Ouen:

I do and may I thank Members for their support and officers who have helped navigate a rather technical and procedural matter successful for the benefit of the Island.

The Bailiff:

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

11.3.1 Senator J.A.N. Le Fondré:

All I wanted to say was to reiterate the thanks of the Minister to his team and I would like to express my thanks to the Minister as well for again bringing this forward to the Assembly. Can I just stress one point where certain Members have suggested we are in business as usual? I will just reiterate we are categorically still not in business as usual, it is not a routine process and even now there are new factors and new variables that come into even the present considerations. That is why the present structure has served the Island very well. We would all prefer not to be doing this but we will continue serving the Island in the capacity that we do as long as we need to. I do thank Members for their support thus far.

The Bailiff:

Does any other Member wish to speak in Third Reading? If no other Member wishes to speak in Third Reading then I call upon the Minister for Health and Social Services to respond.

The Deputy of St. Ouen:

I have nothing further to add, thank you.

The Bailiff:

I would ask therefore for the Greffier to place a vote into the link. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The law has been adopted in Third Reading:

| POUR: 33 | | CONTRE: 7 | | ABSTAIN: 0 |
|----------------------------|--|---------------------------|--|-------------------|
| Senator I.J. Gorst | | Senator K.L. Moore | | |
| Senator L.J. Farnham | | Connétable of St. Martin | | |
| Senator J.A.N. Le Fondré | | Connétable of St. John | | |
| Senator S.W. Pallett | | Deputy M.R. Higgins (H) | | |
| Senator S.Y. Mézec | | Deputy L.M.C. Doublet (S) | | |
| Connétable of St. Lawrence | | Deputy S.M. Ahier (H) | | |
| Connétable of St. Brelade | | Deputy I. Gardiner (H) | | |
| Connétable of Grouville | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy S.J. Pinel (C) | | | | |
| Deputy of St. Martin | | | | |
| Deputy of St. Ouen | | | | |
| Deputy R. Labey (H) | | | | |
| Deputy S.M. Wickenden (H) | | | | |
| Deputy of St. Mary | | | | |
| Deputy G.J. Truscott (B) | | | | |
| Deputy J.H. Young (B) | | | | |
| Deputy L.B.E. Ash (C) | | | | |

| | | | |
|----------------------------|--|--|--|
| Deputy K.F. Morel (L) | | | |
| Deputy G.C.U. Guida (L) | | | |
| Deputy of St. Peter | | | |
| Deputy of Trinity | | | |
| Deputy of St. John | | | |
| Deputy M.R. Le Hegarat (H) | | | |
| Deputy R.J. Ward (H) | | | |
| Deputy C.S. Alves (H) | | | |
| Deputy K.G. Pamplin (S) | | | |

12. Draft Social Security (Amendment of Law - Home Carer’s Allowance) (Jersey) Regulations 202- (P.91/2021)

The Bailiff:

The next item is the Draft Social Security (Amendment of Law - Home Carer’s Allowance) (Jersey) Regulations, P.91, lodged by the Minister for Social Security. For the purposes of this debate the main respondent is the chair of the Health and Social Security Scrutiny Panel. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Social Security (Amendment of Law - Home Carer’s Allowance) (Jersey) Regulations 202-. The States make these regulations under Article 50 of the Social Security (Jersey) Law 1974.

12.1 Deputy J.A. Martin (The Minister for Social Security):

I would like to propose a small change to the Social Security (Jersey) Law. Home Carer’s Allowance is a contributory benefit from the Social Security Fund that is available to working aged people who have given up paid work to care for a very sick or disabled person full time. Caring full-time means over 35 hours a week and we know that many carers deliver more hours of care than that. At the moment the law allows carers the choice of having earnings from a separate job up to a certain limit. Although only a proportion of carers do this, the regulations allow the Minister for Social Security to make a minor change to the rules around paid work. It gives the Minister the power to set the rules by making an order, which I will do if these regulations are passed. Instead of setting the maximum earnings limit I will set the maximum number of hours a carer can do paid work. They will be able to earn any amount within those hours. This change is likely to allow a small number of extra carers to continue with their previous occupation while still caring full-time and receive the Home Carer’s Allowance. The current rules have a maximum amount people can earn. This is currently set at just over £170 a week. The figure is automatically updated every year. I have been contacted by a small number of carers who say this does not work for them because they are professionally qualified and can earn much more than this in one single shift. For example, a carer could be highly qualified nurse or an accountant or other professional job. People with these qualifications will leave their full-time job to care for their loved ones but there is also a benefit for them to continue to take small jobs as well. It is important that there is flexibility in the carer’s benefit to allow the carer to keep in contact with the world of work. This could be very helpful if they may want to return full-time in the future. The opportunity to take a part-time job offers social contact and mental stimulation, the change of routine and a welcome break from the full-time responsibility of caring. These are all examples that have been given to me by people actually doing the caring. If these regulations are approved, I plan to change the limit from a limit of maximum amount earned to the limit of maximum hours worked. I will set this at 15 hours per week. It is important that caring responsibilities are seen as the main

role for the carer and so the hours spent on other work is limited to no more than 15 hours in a week. I want to give all carers the option to work part time if that is something they would like to do. Just to be clear, carers will never be obliged to work. This is providing an option for those carers who wish to maintain a small part-time job alongside their caring duties. Estimates show a small number of extra carers may wish to claim the benefit following this change and it might cost the Social Security Fund around another £50,000 a year. I hope Members will support this change. It has been quite a while coming. I actually think Deputy Southern was still my Assistant Minister when we had the first representation from the parent carers' forum. I will leave it there. I would like to maintain the principles.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

12.1.1 Deputy R.J. Ward:

I would just ask the Minister to clarify, we are moving away this time from a maximum that can be earned to a number of hours which it does not have a limit on for those who are designated carers? That is the main question. I suppose I would ask whether the computer systems can deal with that change because we decided it the other way around. It is not as flippant a comment as it may seem because I think we have seen that there are issues with dealing with these things. I just want reassurance that there is not going to be a problem for those who take on those part-time jobs, that is all.

12.1.2 Deputy M.R. Le Hegarat:

Yes, the panel received a briefing on this matter and it makes sense that an individual is able to continue working in a profession that they are already doing as opposed to being concerned about how much they are able to earn, so from my perspective I am fully supportive of this change.

[16:00]

12.1.3 The Deputy of St. Ouen:

I would simply like to commend the Minister for bringing this forward. This is exactly the sort of flexibility that we need so that our workforce can be allowed to use their skills in an appropriate way for up to those 15 hours a week. Many of those caring will have skills in the caring professions themselves or in medical skills and they will be a valuable adjunct within a flexible workforce, so this is a good thing that has come to fruition, in my view.

The Bailiff:

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

12.1.4 Deputy J.A. Martin:

I would like to thank Deputy Le Hegarat and the Deputy of St. Ouen, the Minister for Health and Social Services. I did not take Deputy Ward as flippant. These were never going to go together. The 8 hours and this 15 hours were never going to go together but please let me explain. The 15 hours is in the rules of the Social Security Law that you can care for 35 hours, get your full-time carer's allowance and you can work 15 hours, and I have no interest on how much you earn, but they are going to be earning. All the people that have made representations are professional people; they cannot do a shift and earn under £170, so it will be money that their employer pays them, it will go through the new system as money. The hour check is for my officers to be assured that they are not working too hard basically. We came to a compromise, we started at 12 hours. As I say, it is a very small amount of people, but I have tried to be as accommodating as I can. We have gone to 15 hours

because, again, some of these people are going to be quite highly paid but they also have the 35 hours of care in. So I hope that explains it - and I can fully understand where Deputy Ward was coming from - and I maintain the principles.

The Bailiff:

I ask the Greffier to place a voting link into the chat. I open the voting and ask Members to vote. If every Member has had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted:

| POUR: 38 | | CONTRE: 0 | | ABSTAIN: 0 |
|----------------------------|--|------------------|--|-------------------|
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator S.C. Ferguson | | | | |
| Senator J.A.N. Le Fondré | | | | |
| Senator K.L. Moore | | | | |
| Senator S.W. Pallett | | | | |
| Senator S.Y. Mézec | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy of St. Ouen | | | | |
| Deputy L.M.C. Doublet (S) | | | | |
| Deputy R. Labey (H) | | | | |
| Deputy of St. Mary | | | | |
| Deputy G.J. Truscott (B) | | | | |
| Deputy L.B.E. Ash (C) | | | | |
| Deputy G.C.U. Guida (L) | | | | |
| Deputy of St. Peter | | | | |
| Deputy of Trinity | | | | |
| Deputy of St. John | | | | |
| Deputy M.R. Le Hegarat (H) | | | | |
| Deputy S.M. Ahier (H) | | | | |

| | | | |
|-------------------------|--|--|--|
| Deputy R.J. Ward (H) | | | |
| Deputy C.S. Alves (H) | | | |
| Deputy K.G. Pamplin (S) | | | |
| Deputy I. Gardiner (H) | | | |

The Bailiff:

Deputy Le Hegarat, I assume your panel does not wish to scrutinise this matter?

Deputy M.R. Le Hegarat (Chair, Health and Social Security Scrutiny Panel):

No, thank you.

The Bailiff:

How do you propose the regulations, Minister, in Second Reading? There are obviously just the 2 of them.

12.2 Deputy J.A. Martin:

En bloc, please.

The Bailiff:

Are the regulations seconded in Second Reading? **[Seconded]** Does any Member wish to speak in Second Reading? If no Member wishes to speak in Second Reading, then there is no debate, and I ask the Greffier to place a voting link into the chat. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The regulations have been adopted in Second Reading:

| POUR: 41 | | CONTRE: 0 | | ABSTAIN: 0 |
|----------------------------|--|------------------|--|-------------------|
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator S.C. Ferguson | | | | |
| Senator J.A.N. Le Fondré | | | | |
| Senator K.L. Moore | | | | |
| Senator S.W. Pallett | | | | |
| Senator S.Y. Mézec | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Mary | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Martin | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Clement | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of Grouville | | | | |
| Deputy K.C. Lewis (S) | | | | |

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

The Bailiff:

Do you propose the matter in Third Reading, Minister?

12.3 Deputy J.A. Martin:

Before I do, I would like to thank everyone that has voted for this small change but it will really affect the lives of the people who do this caring and they have been waiting quite a while. I thank them and I propose it in the Third Reading.

The Bailiff:

Is it seconded for Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading, then there is no debate. In the light of the voting history I will take this as a standing vote unless any Member indicates in the chat that they wish the appel. Very well, there is a request for the appel. I ask the Greffier to place a link into the chat. I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. The regulations have been adopted in Third Reading:

| POUR: 41 | | CONTRE: 0 | | ABSTAIN: 0 |
|--------------------------|--|------------------|--|-------------------|
| Senator I.J. Gorst | | | | |
| Senator L.J. Farnham | | | | |
| Senator S.C. Ferguson | | | | |
| Senator J.A.N. Le Fondré | | | | |

| | | | |
|----------------------------|--|--|--|
| Senator T.A. Vallois | | | |
| Senator K.L. Moore | | | |
| Senator S.W. Pallett | | | |
| Senator S.Y. Mézec | | | |
| Connétable of St. Lawrence | | | |
| Connétable of St. Brelade | | | |
| Connétable of Grouville | | | |
| Connétable of St. Peter | | | |
| Connétable of St. Mary | | | |
| Connétable of St. Ouen | | | |
| Connétable of St. Martin | | | |
| Connétable of St. John | | | |
| Deputy J.A. Martin (H) | | | |
| Deputy of Grouville | | | |
| Deputy K.C. Lewis (S) | | | |
| Deputy M.R. Higgins (H) | | | |
| Deputy J.M. Maçon (S) | | | |
| Deputy S.J. Pinel (C) | | | |
| Deputy of St. Martin | | | |
| Deputy L.M.C. Doublet (S) | | | |
| Deputy R. Labey (H) | | | |
| Deputy S.M. Wickenden (H) | | | |
| Deputy of St. Mary | | | |
| Deputy G.J. Truscott (B) | | | |
| Deputy J.H. Young (B) | | | |
| Deputy L.B.E. Ash (C) | | | |
| Deputy K.F. Morel (L) | | | |
| Deputy G.C.U. Guida (L) | | | |
| Deputy of St. Peter | | | |
| Deputy of Trinity | | | |
| Deputy of St. John | | | |
| Deputy M.R. Le Hegarat (H) | | | |
| Deputy S.M. Ahier (H) | | | |
| Deputy R.J. Ward (H) | | | |
| Deputy C.S. Alves (H) | | | |
| Deputy K.G. Pamplin (S) | | | |
| Deputy I. Gardiner (H) | | | |

13. Changes to the objects and purpose of the Ann Alice Rayner Fund (P.92/2021)

The Bailiff:

The next item of Public Business is the Changes to the objects and purpose of the Ann Alice Rayner Fund, P.92 re-issue, lodged by the Minister for Treasury and Resources. For these purposes the main respondent will be the chair of the Corporate Services Scrutiny Panel and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to amend the Act of the States dated 27th March 2001 concerning the Ann Alice Rayner Fund (i) by deleting the words “or philanthropic” where they occur in paragraph (a)(2); (ii) by substituting the words “the Minister for Treasury and Resources” for the words “the States” where they occur in paragraph (a)(2); (iii) by substituting the following paragraphs for paragraphs (b)(1) to (b)(4): “(1) The income of the fund shall be administered by 4 individuals or by the board of no fewer than 4 individuals of a single independent corporate administrator appointed by or removed by the Minister on the recommendation of the Trustee on such terms and conditions as the Minister considers appropriate. (2) The Income Administrator(s) may, at its (their) absolute discretion from time to time, make grants, or loans to be secured on immovable property, on such terms and subject to such conditions as it (they) determines, out of the returns of the fund for the relief of needy persons residing in Jersey. (3) The Minister for Treasury and Resources may from time to time propose to the States other objects and purposes of a charitable nature to be approved by the States for inclusion in the objects and purposes of the fund”; and renumbering the remaining paragraphs accordingly; and (iv) by substituting the words “the Minister for Treasury and Resources” for the words “the Finance and Economics Committee” throughout paragraph (b) and its sub-paragraphs.

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

The Ann Alice Rayner and Greville Bathe Funds are 2 substantial bequests that the Bailiff, Jurats, trustee and Assembly have previously agreed should be administered together. Their current values at the end of September were £3.8 million and £23.1 million respectively and the funds have typically distributed approximately £185,000 and £785,000 per annum in recent years. The Treasurer of the States is the official trustee of both funds; however, the activities of income administration are performed separately by independent appointees. Until recently these appointees were 4 individual Jurats of the Royal Court in accordance with the wishes of the late Greville Bathe and the requirements of this Assembly for Ann Alice Rayner. I would firstly like to place on record my personal thanks to the Jurats, both past and present, for performing this role with compassion and wisdom over many years. It has become clear over the last couple of years that the burden this role is placing on our extremely busy Jurats is increasing and the context within which the funds are operating has changed. With this in mind, the Jurats have expressed the desire to collectively stand down from the important role. This decision has already been formally notified to the trustee by the Bailiff. As a result, it is necessary to appoint new income administrators with immediate effect. Consequently, it is necessary to ask this Assembly to agree to amend the stipulation of P.38/2001 which stated that income from the A.A. Rayner Fund is administered by Jurats. Having received the current circumstances of both funds, the trustee is recommending that I seek Members’ approval for a variance to the trustees to provide the option to appoint a single corporate body as income administrator, such body to have equivalent quorum requirements, i.e., a minimum of 4 individuals in order to preserve the wishes of the settlor. This will mirror changes recently approved by the Royal Court to the Greville Bathe Fund. The Scrutiny Panel have raised various points about these proposals which I will address in the course of my speech. I thank them for their comments. These comments were received on Friday and helpfully identify areas for clarification in my speech today. To this end, before I proceed further, I must reiterate that (1) these proposals fundamentally relate to A.A. Rayner, not wider gift funds, (2) are made with an intention of enabling income awards to contribute to be administered alongside those of Greville Bathe and (3) are in essence about

appointing a new income administrator to continue the same work and type of awards as the outgoing administrator. As the Scrutiny Panel identify, the changes have been developed in a compressed timeframe. The Jurats' intention to stand down in October was communicated in February 2021 and the initial proposals were formulated soon after. Between then and now, the majority of the time taken has been tailoring the proposals in reflection of discussions with the Jersey Charity Commissioner, the Charitable Funds Oversight Board and the Law Officers' Department. The changes were publicly advertised for a month in July in various medium, plus letters inviting comments were written to recent sponsors, including Citizens Advice groups and groups that have applied for awards and to recipients. The proposals were then delayed by the summer recess and extra time was spent refining the Greville Bathe representation to the Royal Court to accommodate certain wishes of the Charitable Funds Oversight Board.

[16:15]

Latterly, the Scrutiny Panel have engaged a review which took further time. I am sure you will be aware these processes, while necessary, have resulted in the delay of the Q3 awards and there are currently over £300,000 of applications pending for needy applicants. I recommend that sufficient review by many parties has taken place and the priority now should be to make a decision rather than to delay further. There are 3 main arguments in favour of the change to allow the appointment of an independent corporate income administrator whose appointment or termination will be transferred from the Assembly to the Minister for Treasury and Resources. Firstly, the changes will facilitate access to the necessary skills, resources and infrastructure that is increasingly needed to support the funds in a modern fiduciary context. Professional administrators are better placed in the increasing governance standards around award making and outcome evaluation. Secondly, the changes will enhance structural aspects of governance, transparency and the independence of the income administrator role. Individual appointees rely on Treasury officials to gather, store and process information critical to the decision-making. This creates a dependence on Government officers and potential ambiguity around the separation of roles, most notably in the event of dispute. The new arrangements will formalise the respective accountabilities and standards. Thirdly, it is anticipated that a centralised income administrator role would provide the funds with better public visibility, better co-ordination of outcomes and simplify partnering with external bodies. Additionally, over time economies of scale would be better achieved as smaller gift funds are able to access the expertise available from a centre of excellence. These arguments have been considered by the Royal Court and deemed appropriate grounds for equivalent changes to the deeds of the Greville Bathe Fund. This proposition introduces a power for the Minister for Treasury and Resources to appoint or terminate appointment of the income administrator on a recommendation of the trustee. In the absence of the role of the Royal Court to make appointments of Jurats, a new mechanism of appointment needs to be formalised that enables the appointments to remain non-political. Since the trustee retains overall fiduciary responsibility for the funds as per the settlor's wishes, it is appropriate that the Minister should make the appointment or termination on the recommendation of the trustee. The Scrutiny Panel have queried whether transferring trusteeships under an oath of the public trustee model would set precedents for other gift funds or be incompatible with aspects of the Public Finances Law. I am happy to clarify to the Assembly that this proposition does not concern trustee structures. The Assembly, via the Minister for Treasury and Resources, retains control of the appointments and termination of the income administrator. The trustee, the Treasurer, retains both the control of the fund assets and a personal fiduciary responsibility for the governance of the fund under the Trust's Jersey Law 1984. The Scrutiny Panel refers to an Office of the Public Trustee consultation. To be clear, this is a separate exercise with slightly different goals which I will explain later. The proposition also includes the deletion of the words "or philanthropic" with the objects of the Trust. The purpose of this change is to make it clearer that both funds continue to meet the public benefit test, i.e., remain charitable rather than private. In practice, this will not affect the nature of

awards being made. The Scrutiny Panel have queried removing reference to the word “philanthropic” from the wording of the fund and have suggested that terms should be introduced that provide specifically for nurses and patients in hospital in need, as well as hospital equipment. I do not propose to narrow the definitions in this way which would be a regressive action. In proposition P.38/2001, the Assembly acknowledged that by 1952 obligations towards hospital and equipment spend had effectively finished and that since then the purpose of the fund have been to make awards to the needy. That is the current working mandate of the fund. Restrictions on awards to groups of individuals were purposely removed in that proposition to give a wider discretion “so that the income can be distributed where it will do most good”. The criteria of pecuniary relief to needy persons of Jersey will continue to apply and this shall neither exclude nurses nor patients. To recap, these changes are for the permanent benefit of the fund. They will enable a corporate body, such as the registered charity or a regulated trust company, to fill the role of income administrator should the trustee consider it desirable. I am happy to provide the Assembly with detail about the first income administrator the trustee is recommending for appointment but it should be noted that this appointment is for a fixed pilot period of only 18 months and this proposition concerns the permanent option to appoint or remove such types of income administrators. If approved today, I initially intend to accept the trustee’s recommendation to appoint the J.C.F. (Jersey Community Foundation) as income administrator for the Ann Alice Rayner bequest. The J.C.F. is a registered charity and as such is under the oversight of the Jersey Charity Commissioner. It operates on a non-for-profit basis. It is the incumbent administrator of the Jersey Lottery and Reclaim Funds and for reasons of expediency, these administration models and their service level agreements provide the structure of the proposed relationship. Although other potential partners exist, it has been expedient to work with the J.C.F. in developing the proposals in the limited time available. As I have mentioned already, the initial appointment would be for an 18-month fixed-term pilot so that the trustee has sufficient time to review the success of the single corporate administrator model and to determine whether this model should be pursued as a permanent solution. The Charity Commissioner would also use this period to evaluate the appointment, firstly, to determine whether in practice the awards made are charitable in nature and thereby a registered charity is a suitable administrator and, secondly, whether such a corporate administrator is competent to make the awards effectively on a permanent basis. Furthermore, within that 18-month period, the trustee has undertaken to provide the Charitable Funds Oversight Board with a report on the sustainability or otherwise of the creation of an Office of the Public Trustee. This is a reform initiative covering various aspects of governance and structure across the span of Government of Jersey administered gift funds. Income administration is one strand of this reform, hence the link to the initial pilot appointment. I would like to reassure Members that this is solely an administrative change. Significant and detailed discussions have already taken place with, among others, the Charitable Funds Oversight Board, the Jurats themselves, the Jersey Charity Commissioner and the Citizens Advice Bureau. I hope that Members can appreciate the proposals I am bringing today are necessary and urgent. They are intended to ensure that the administration of the income from these very generous requests that were made over 40 years ago continues in a manner that is aligned to the settlor’s original intentions while also meeting modern fiduciary standards. I can genuinely say to Members that I believe these changes will allow even greater access for Islanders who might be able to benefit from the legacy left to us by the late Ann Alice Rayner. I make the proposition.

The Bailiff:

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

13.1.1 Senator K.L. Moore:

The panel’s comments note that the proposal does provide the foundations for enhanced governance, accountability, transparency and standards for the administration of the fund although it is lacking in

the detail that should be expected by this Assembly. We consider that the Minister should withdraw and improve this proposition. The panel has various concerns in relation to the detail contained in the proposition which it concludes should be addressed by the Minister. Sadly, we find that her work has been insufficient and requires improvement. Unfortunately, there was not enough time for us to bring the required amendments ourselves. The Assembly should note that the timetable to the lodging of the proposition is disappointing. It is evident that you, Sir, provided considerable notice of the intention 12 months of the Jurats to stand down to the Minister for Treasury and Resources. However, the Minister did not lodge the proposition until 28th September of this year and did not update the panel of her intended actions. The urgency is merely a consequence of lodging the proposition at such a late stage so that the Jurats who are standing down have restricted opportunities. It also has limited the options available to the Minister herself. It has been argued that this would prevent people and groups from benefiting from the allocation of these funds. However, it is highly possible that the Jurats might continue, if they were asked politely, for a short period longer as it has been noted by the Minister that they have done to date an excellent job, although an increasingly onerous one, and we all appreciate that they are a very busy group of people. We have no issue with the selection of the foundation to provide the selection and allocation of funds. The panel would also like to thank the Comptroller and Auditor General and the Charity Commissioner for their written submissions to assist the panel's work. The panel, however, are concerned by a number of items and I will elaborate here. We are concerned by the removal of the wording "of philanthropic" from the terms of the fund. The Minister indicated in evidence provided to the panel that this was due to the purpose being absorbed by the States of Jersey and as the Minister has just described. The panel would question whether the whole purpose in relation to a nurses' home and hospital equipment has been provided by the States or Government of Jersey. The panel would request confirmation from the Minister as to the location of the nurses' home that was provided by the Ann Alice Rayner Fund and whether it is still providing accommodation for nurses. The Minister has suggested today that it is no longer necessary for nurses to receive philanthropic support from such a fund. However, and sadly, the panel has received a representation from a nursing body that states quite the contrary. Members, I am sure, will be aware of the hardship that some nurses are experiencing in current times and this should of course not be the case but why at this time remove the access that nurses and their colleagues might be able to benefit from when it is clearly needed in our community. The panel would suggest that amendments should be considered to provide specifically for nurses and patients in hospital in need as well as specialist hospital equipment that is not provided by the States of Jersey to deliver against the specific purposes of the bequeathed funds and to conform to the requirements of the charity test. Members of the Assembly may well be able to think of examples where this fund will be particularly beneficial, for example, specialist equipment for cancer patients which is not provided by the Government of Jersey but which has a significant benefit to a patient in need or could help nurses with rental costs or a subsidised travel card. This would then ensure that the fund is targeted and specific to the fund's core objectives and to allow Ann Alice Rayner's gift to the Island to achieve its objective. To date, it appears that opportunities for individuals or groups to benefit from these funds have often been lost because they did not know about it and in future we hope that there will be better signposting through the use of the Jersey Community Foundation. We were certainly grateful for the time that we spent meeting representatives of the foundation and feel assured by their experience. The panel are, however, concerned that the proposition goes beyond amendments of the Ann Alice Rayner Fund and that it would appear that the Assembly, in agreeing this proposition, would set a precedent for the management of other gift funds held by Government but that does not form part of the proposition put forward to the Assembly today for approval.

[16:30]

The Assembly should also have been asked to agree that action should be taken to provide for a study of a public trustee. The panel are concerned that the transfer of the trusteeship to an independent

body will affect the responsibilities of the Treasurer as Trustee and accountable officer as defined in the Public Finances Law. Also, evidence provided by the Charity Commissioner confirms that the public trustee would need to be wholly independent of both the Ministry and legislature otherwise it would not meet the charity test. Therefore, to enable this fundamental action to be completed, it should have been formed as part of the proposition for the Assembly to approve and the reasons should be clearly detailed. The accounts for the Ann Alice Rayner Fund have not been published on gov.je since 2017. The Assembly should be able to access up-to-date records of the fund to inform its decision-making which the panel has been advised is around £350,000 per annum. The Charity Commissioner pointed out to the panel that significant work and governance is needed to spend a third of £1 million wisely and well. The commissioner also pointed out that the median annual expenditure of registered charities was of the order of £37,000 so this fund is significant in size locally and it must be correctly structured. Accountability: given the different responsibilities of each stakeholder it is vital that the lines of accountability are clear within the proposition. The panel have highlighted in its comments the various issues with terminology and reference points which require clarification and the panel would encourage the Assembly to consider our comments paper carefully in regard to this area of concern. The proposition report confirms that the 18-month pilot period is an interim solution in relation to the income administrator appointment. The panel concludes that the Minister should agree to a formal consultation on the outcomes of the 18-month pilot programme as recommended to the panel by the Comptroller and Auditor General. The lodged proposition and report for the Assembly's consideration is silent on various engagement terms of the independent corporate administrator, including confirmation on costs. The panel concludes that the terms of the service level agreement should be provided to the Assembly to clearly inform its decision-making. As stated in our comments, we do not find that there has been adequate consideration of this proposition and the Minister should, in an ideal world, withdraw and return with an improved proposition as it appears clear that the Minister will not observe our request. We suggest that Members vote against the proposition.

13.1.2 Deputy K.F. Morel:

I would like to first of all start off by thanking the Jurats for their years of service on this and I can understand why they feel they are unable to continue their work. Obviously the Scrutiny Panel has raised various concerns, not least about that this was notified back in February and is only just coming to us now, but I would particularly like to focus on the move of the income administration role to the Jersey Community Foundation. I question whether that is an appropriate move and, to be honest, the Assembly has not been given enough information to really know. For most of us, I believe, our understanding of the Jersey Community Foundation is that, for instance, the dormant bank accounts and the lotteries proceeds are passed to them and they receive applications, they assess those applications from other organisations, and then allocate the money accordingly. Indeed, this is talked about in the only statement that I have been able to find about the aims of the Jersey Community Foundation, and that is on the Charity Commissioner's website. To be honest, there is very little on the Jersey Community Foundation website which tells you about what the Jersey Community Foundation does. My concern is that the Jersey Community Foundation may not be an appropriate place for this because we are talking here about individuals who are in times of need having to go to a body that they do not know. That happens, they do not know Jurats either, but I wonder whether people may feel more reassured that Jurats, whose very work is obviously highly discreet and involves confidentiality at all levels, I wonder whether people would feel the same sense of discretion and confidentiality with the Jersey Community Foundation. Because at the end of the day we are asking people to open themselves up and say: "I need some help" and we are sending them to a body that is not easily recognisable to people because it has been principally an organisation-to-organisation body and now we are talking about it being a body which moves to individuals. When I read through the Registered Public Benefits Statement that the charity has on the Charity

Commissioner's website, it does say: "The J.C.F.'s charitable objects are to pool, steward and deploy by way of grants or other payments from charitable structures, individuals, families, businesses, funds, the Government of Jersey, or any other body to support the community of the Island of Jersey provided always that such support is by way of grants or other payments to Jersey registered charities and/or accepted foreign charities as defined under the Charities (Jersey) Law 2014, and/or to charitable purposes." Now, no individual is going to be a registered charity and I would not call an individual a charitable purpose. Indeed, to call an individual a charitable purpose I think is undermining the humanity of that individual. Maybe I should have asked this as a question to the Solicitor General. Are we sure that the terms and the objects of the Jersey Community Foundation are in line with the job that we are asking it to do here? I would also, as I said, ask whether we can be sure that the Jersey Community Foundation will treat in the absolute utmost discretion the individuals who have to go to the foundation literally to ask for money to help themselves. I really do wonder if that is the right thing to do. So, I do not suppose I am allowed to seek your advice, but maybe this should be better asked as a question to the Solicitor General: is the Jersey Community Foundation allowed by its own objects to provide money to individuals who are not registered charities? Thank you.

The Bailiff:

Mr. Solicitor General, are you able to assist on that question? The question is: is the Jersey Community Foundation permitted by its own regulations, Articles or whatever they may be, to advance monies to individuals as opposed to charitable bodies?

The Solicitor General:

Well I could answer it, I hope, in this way. First of all, the Royal Court in its consideration of the Greville Bathe matter was content that it could and that it was appropriate. Secondly, the Charity Commissioner, who has considered it, is content that at the moment what is recommended is appropriate. Thirdly, primarily, it seems to me a matter properly for the Treasurer and the Jersey Community Foundation, pursuant to a service level agreement, to ensure that it works in an appropriate fashion given that, as I understand the proposal at the moment, at least, it is intended to be an interim one. That is I think the best answer I can give.

13.1.3 Deputy J.H. Young:

I share the unease of this, having read through the proposition and the comments, and quite a number of questions occurred to me going through. Of course, I was reminded years ago in a former life when I was in the Treasury in the 1970s, I remember these funds. They were then, I do not think, anywhere near as substantial sums of money as they are now. Looking at the last published accounts in the reports on the gov.je website, the accumulated capital on the Ann Alice Rayner Fund is about £4 million, or was, and the Greville Bathe £20 million, so we are talking about very substantial sums of money. The context I think these were, these were monies gifted by private families, bequests. It goes back to the days when, if you like, there was a very high level of trust in government processes I think to do that. Obviously what they did is the then Treasurer of the States took them on as part of the various pockets of money that they got - I think these 2 are probably some of the largest - it was both a function of a bookkeeper and an administrator in those days and they used to publish annual accounts. I think they still do in the accounts for the Treasurer of the States. So, as it were, because Government has taken on this role, there is I think quite a substantial moral, if not legal - I am sure there is a legal obligation - to ensure proper management of these funds. Of course, I would be very, very surprised if anybody set up such a thing today but I do remember the way they were working. My memory tells me in those days there was no income support or social security, there was none of that. There were none of the benefit structures that we have today, and we had parish welfare. People fell through the net on parish welfare and this is why those funds were, I think, in

place to substitute or to pick up some of the gaps that were in the parish welfare system of the day. Of course now here we are, 40-odd years, probably even 50-odd years after these, and I cannot see any new such funds being set up. My expectation would be, having worked at a law firm, is that people making such bequests, I think they would be very unlikely to go to Government and say: "Would you look after these monies?" They would be more likely to go to a law firm and ask to set up some device to settle the money and there will be a thing called a trust deed that sets the rules. Then there is accountability and here we have it within Government. Here, the Treasurer then is taking on a major role. While we had the Jurats working, obviously we had that separation of the system, but now I can understand why absolutely the Jurats want to exit from that. But is it necessarily right to give such a role to a Treasurer? Part of the role says that the Minister for Treasury and Resources is able to suggest new objectives. I am pleased that it does say at least those purposes of the funds should come to the States I think but nonetheless it is kind of all locked in. I wonder is it still going to continue that these funds are part of the accounts of the Treasurer of the States? I do wonder about what independent advice we have had. I have just heard from the Solicitor General about, well, it is the Treasurer and so it is all right then. I would like to feel assured that this is as robust as it can be because people who gave money years gone by, we should make sure that those arrangements are in place. I also wonder are there any surviving members of the family that would have a view and opinion how these funds should be managed and dealt with. So, I am sorry, these are unanswered questions for me, particularly if this is to be a model of the way forward for lots of these other funds. I apologise to the Minister but I think it is our job here as the final decision-making whether we feel that we can be confident about this change or not. It is about arrangements for managing of private money, not government money, and I think we have to be especially careful.

The Bailiff:

There are 2 questions to be posed for the Solicitor General. Deputy Higgins, you have a question?

Deputy M.R. Higgins:

I apologise to the Solicitor General if he did mention this. I was trying to listen closely and I did not hear the answer.

[16:45]

Deputy Morel asked whether it covered individuals. Although he talked about the court and he talked about the Charity Commissioner, I did not hear him say: "Yes, it does cover individuals." So can he please clarify that because, again, like many other Members, I am very concerned about this and likely to vote against it.

The Bailiff:

Deputy Morel, you have a second question for the Solicitor General? I thought I would give him all the questions in one go so that he could work out if there is a way of answering them succinctly.

Deputy K.F. Morel:

Yes, in his response to me, the question I asked was whether the objects of the Jersey Community Foundation which require it to award grants to registered charities would enable it to undertake the work being proposed by the Treasurer here. He said yes and this had been confirmed by the Royal Court. I wondered if he could tell me how the Royal Court confirmed it, in what forum, in terms of why was the Royal Court being asked. Because I could not find anything in the report which suggests that the Royal Court have determined whether or not the Jersey Community Foundation has the correct aims written in its objects to allow it to make donations to individuals. So I would be grateful if the Solicitor General could explain more clearly how and why the Royal Court have determined this.

The Bailiff:

There is also a question from Senator Vallois.

Senator T.A. Vallois:

Could I ask the Solicitor General to explain the independence of the Treasurer under the Public Finances Law in accumulation with regards to their responsibility as a director general as assigned by the principal accountable officer under the Public Finances Law and how those 2 interactions affect the ability to objectively assess the fund administration of all the funds that sit under the States but in particular in relation to the Ann Alice Rayner Fund and the Greville Bathe Fund?

The Bailiff:

Mr. Solicitor, do you wish some further time to consider your answers to those questions?

The Solicitor General:

That last question is a very involved one and I cannot undertake to answer it shortly; probably not shortly this evening either. The other questions I am happy to deal with now. I have not seen the foundations of the Jersey Community Fund. What I can say is this, reminding myself of what the testatrix, that is Ann Alice Rayner, said in her Will which is that she was bequeathing the money for charitable purposes which were grants of pecuniary relief in any form to needy persons of either sex of the professional classes residing in Jersey. It talked about the relief of the poor. There is first of all no reason why that needs to be construed in terms of any charity or the fund giving directly to individuals. It does not preclude the Jersey Community Fund meeting those wishes of the testatrix by making grants to other charities which are able to have those sorts of things as their objects. That is the first point. In terms of accountability, as I have understood it, of course the Jersey Community Fund is accountable to the trustee, in this case the Treasurer, and its actions will be subject to a service level agreement. So if there is any suggestion that the J.C.F. is not meeting the wishes of Ann Alice Rayner, that would be a matter for the trustee in the exercise of his fiduciary duty to take the J.C.F. to task over. Ultimately, it may be by making a recommendation to the Minister to remove J.C.F. as the income administrator of the fund. So that is, I hope, an explanation for how it would work. In terms of the Greville Bathe, that was a separate fund and it went to the Royal Court because Mr. Greville Bathe, in his Will, gave a much more limited role to the States Assembly in terms of the fund. It was limited simply to appointing Jurats. Ann Alice Rayner placed a very much greater responsibility on the States, giving to them the power directly to administer the fund in such a manner as they might resolve. So the Greville Bathe Fund is something of a side issue in terms of what the States are being asked to resolve today. So, those are the answers I can give to Deputies Higgins and Morel; I do not immediately have an answer to Deputy Vallois. Her question was a long one. I wonder if she would mind, if she can, perhaps send it to me in writing and I will look into it as much as I can this evening.

13.1.4 Senator S.C. Ferguson:

I do wonder about the ability of the Treasury to plan the proper administration for these funds. Our first Auditor General, Chris Swinson, recommended the change of administration of the funds, pushing them into an umbrella fund so that there could be better returns. Up until then, all these little funds, big and little funds, were all invested separately. It was an absolute nightmare. However, if it required the advice from the C. and A.G. to make a sensible change, can we rely on the Treasury to make these latest changes? How soon do these funds become a magic money tree for H. and S.S. (Health and Social Services) in the Jersey Care Model? We have only to look at the record of the Le Seilleur Fund which was in fact administered originally by H. and S.S. and the Oxford Road property; do we really want to possibly expose these funds to that sort of approach? I am extremely unhappy

about the whole process. I thoroughly agree with the Corporate Services Panel's comments that there are too many questions to be answered.

13.1.5 Deputy D. Johnson of St. Mary:

I have 2 points regarding this. The first is that it so happened over the weekend I was approached by a member of the nursing profession who raised this very point and had only recently become aware of the Ann Alice Rayner Fund and made the point himself that had other nurses been aware, they would have been motivated to make applications towards it. I would be interested to see accounts, see how much use of the fund has been made in that direction. The other point relates to the appointment of the income administrator. Reference has been made to the Jersey Community Foundation and I know them from the work this panel did in relation to the application of Channel Island lottery proceeds. At that stage, and before Scrutiny effectively endorsed or supported the proposal to distribute lottery proceeds, we had a service level agreement in our possession which laid out the framework of their way of thinking and how it might be applied. Without a similar document here, I am in difficulty in being convinced that the foundation or any trustee would know the route intentions of the settlor or the testatrix so as to better apply the income. I am minded at the moment to vote against the proposal for that reason. Thank you.

13.1.6 Deputy J.A. Martin:

Yes, I will be brief, I have listened to the debate and the legal advice. When the Minister sums up, I think we are in a sort of a "where we are" place because quite clearly the Jurats, with all their other busy work from their main job, let us say - I call it their main job - in the courts, they do not want to administer this fund. If we cannot give it to Revenue at the moment and then sort it out, this could be a fund that is just not used for quite a while. I would just like the Minister, when she sums up, to say if there is a plan B. I did hear Senator Moore say: "Ask the Jurats nicely and they might do a few more months." Well, I think they are not walking away, they are running. They do not want to do this, it is clear they do not want to do this, they have not got time to do this. So do we want this fund just sitting there not administered by anybody and not helping anybody that it was set up for?

13.1.7 Senator T.A. Vallois:

I would just like to raise the issue, Deputy Martin just referred to funds that are not used for what they are necessarily used for in various areas. I did raise the question with the Solicitor General; I understand that he needs more time to consider that but there is an issue here. Funds are set up for a specific purpose by people who are willing to put their money to things that they think are appropriate for the public of Jersey. Ann Alice Rayner Fund is an example but what is unfortunate in this proposition, it also makes a kind of sudden change to the Greville Bathe Fund that is not quite clear and transparent in the overall proposition itself. We need to talk about openness and transparency in regards to the actual overall proposition itself in terms of what we are talking about. We have to recognise that people have entrusted the funds that have been bequeathed to the public in the absolute important monetary factor that they expected that these funds would be expended to. So when we talk about the issue of Ann Alice Rayner Fund and how it could have been administered, Corporate Services have heard from members of the public or unions with regards to the health service where funds could have been used for specific equipment requirements that the Government were not willing to provide the money for but which were more than likely amenable under the requirements of this fund. There is a question - and yes, I do sit on the Corporate Services Scrutiny Panel but I am talking as a Member of the Assembly - when we look at the requirements and the specific objects of the use of the fund in terms of promoting the happiness and comfort of the inmates of the Poor Law Department of the General Hospital, provision of up-to-date equipment for the treatment of patients at the said hospital, pecuniary relief in any form to needy persons of either sex of the professional classes residing in Jersey. There has been an issue over many years, whether I have sat on various

Scrutiny Panels, whether I have been in the various Ministries that I have served in, I have raised an issue of how we overlook and support and ensure that these funds are being used for the appropriate objectives that were placed for the public that were in need. We have seen a number of times over the previous years where Treasury have put in requests to the Royal Court to change the requirements of funds because the historic nature of the language has not necessarily enabled the provision of funds to what was expected. So, for me, I do not think this proposition covers the overall requests. I do wonder whether it goes further because it is not just on the Ann Alice Rayner Fund, it is on the Greville Bathe Fund as well. There are many, many, many other funds that sit under the Government and my concern sits with how the Public Finances Law currently sits for our pecuniary interests. I would expect a Treasurer to be completely independent and holding the principal accountable officer to account for the way that funds are being expended. I would also expect the principal accountable officer is able to show how they are spending those funds.

[17:00]

But, should an efficiencies plan or something else come up that says we will spend more money in this area and reduce money in another area, but we have this fund on hand where we can take some money and make a proposition to Community Foundation, this is where it gets slightly concerning to me. Bearing in mind the principal accountable officer can appoint a Treasurer as the director general, as is currently the case, therefore calling into question the independence and how the trustee administration works with regard to the responsibilities we have to the people who bequest their funds and requests to the public for this funding. This is not just general taxation funds. This is people who have decided they want money they have to go into certain requirements. That is why I raise these issues now and I think it is important that I do so because it is a much larger consideration with regard to how we handle public finances and how they are attributed to outcomes for tangible public effect.

The Bailiff:

Thank you very much, Senator. Solicitor General, do you wish to speak to the Assembly now?

The Solicitor General:

I do not think it is necessarily a straightforward question that Senator Vallois raises, but I think the answer is this. This is not in my view a Public Finances Law situation. It is about charitable funds that have been bequeathed for a charitable purpose. The whole idea is the fund administrators are meant to be independent of politics. The structure that has been created with accountable officers and the Public Accounts Committee and so forth is very much part of a political structure that is at odds with the purposes of the Rayner Fund, hence the idea of having independent fund administrators. That is not to say there is not some oversight over the way it is managed. For this reason, the J.C.F. is answerable to the Treasurer as trustee. The Treasurer as a trustee is bound by a fiduciary duty that is subject to the Island's trust law and customary law on trusts and therefore there is a supervisory role in law through the court. There is also a supervisory role that does ultimately rest with the Assembly because the Treasurer is answerable to the Minister for the manner the fund is used in the sense that if the J.C.F. is not operating as it should do, it is incumbent upon the trustee to procure the removal of the fund, which would be done by reporting and advising the Minister that should happen. The Minister is in turn accountable to the States Assembly. That may be more convoluted than the standard accountable officer public accounts route, but I am not convinced that this falls within the standard public accounts structure, which is first and foremost underlying the political system. I hope that is to some extent helpful.

The Bailiff:

Thank you very much. Does any other Member wish to speak on the proposition? Senator Moore, I am afraid you have already spoken.

Senator K.L. Moore:

I appreciate that but I think I can still, under Standing Order 83, propose a reference back. If I may, during this debate it has become clear that additional information is required from the Minister.

13.2 Changes to the objects and purpose of the Ann Alice Rayner Fund (P.92/2021) - reference back

The Bailiff:

You are correct that Standing Orders say that any Member of the Assembly may propose without notice during a debate on a proposition that it be referred back either for further information or to clarify any ambiguity or inconsistency. In making your application for a reference back would you indicate what information you think is necessary?

13.2.1 Senator K.L. Moore:

Indeed, and I think it has become clear during this debate, and I am grateful to all who have spoken and particularly to the Solicitor General for his advice, that there is a level of ambiguity over the removal of the word “philanthropic” and the impact that might have on people who would have, under the original retentions of the fund, benefited from it. We are also reminded of the comments of the Charities Commissioner in relation to the inability of the Community Foundation to give a portion of funds to supporting individuals, which would also be against the original requirements of the fund. Therefore, we would like, and I sense the Assembly Members see the points the Corporate Services Scrutiny Panel have been trying to raise in its comments and in my earlier speech.

The Bailiff:

You are seeking clarification on what you say to be an ambiguity as to the impact of the removal of the word “philanthropic” and you are asking that the Jersey Charitable Fund, given that it cannot give to individuals, how it can properly effectively be the administrator of this fund. Is that the 2 pieces of information you are seeking?

Senator K.L. Moore:

I think that is the heart of the problem, yes.

The Bailiff:

Very well. Is the proposition for reference back seconded? [**Seconded**]. Does any Member wish to speak on the matter?

13.2.2 Deputy R.J. Ward:

I was going to speak on the main proposition and was going to say that I would ask for a reference back but there is so much in terms of what is going on here that I am unsure about that I was unclear as to how much of a reference back I would ask for. There are so many pieces in this and I too have been contacted by representatives of nurses asking what is happening with the Alice Rayner Fund. It was not a fund that was well-known and therefore these changes are making it even more difficult for a specific fund to be accessed. That is one of the issues we have here and why we need a reference back. We do not know, to put it simply, what this fund will look like afterwards compared to what it looks like now because what it looks like now is not clear to many people anyway. A possible solution to something we do not know what the problem is apart from the Jurats not wanting to control this anymore, which is a slightly separate issue and another way round that can be found. But the nature of this fund seems to be put into one great big merger of funds that will lose the nature of

it as an individual charitable fund set up for very specific reasons. There is so much more information required on this and for the reference back I would add what the nature of this fund now becomes compared to what it was in terms of its link to nursing and healthcare and equipment, for example. I cannot see what it will look like now, and I cannot say I was particularly aware of it beforehand. It is not something that has come to my attention. I am not a healthcare professional so why would it? But when healthcare professionals have contacted me and said they are concerned about these changes to the Alice Rayner Fund and then, to be quite frank, we see a comments paper that clearly says you should withdraw this and come back to us after more work has been done and it seems that has been completely ignored and brought to the Assembly anyway. We cannot continually allow that to happen so I think the only way out of this is to have a reference back on the specific issues that have been raised and come back to the Assembly with something that has more clarity, is more understandable and give a much clearer definition and picture of what this fund will look like after the changes so we can compare it with before the changes and see whether it is the right thing to do. I cannot see how we are deciding this is the right thing to do on the information we have at the moment. I simply cannot decide, and therefore I will vote against it and that too, may be the wrong thing if the right information is brought to us. It is a bad proposition, it is bad legislation, it is a bad move and we have to stop this happening. It is happening too often, so I would urge people to support the reference back.

13.2.3 Deputy I. Gardiner:

Interestingly enough, I put my request to speak before Senator Moore proposed a reference back exactly for the same reason and as Deputy Ward has tried to finalise why I am asking for a reference back I will add 2 points to the points that have been made. When we look into the report, it is written on the last page of the report that this will be a step forward towards the aim of securing an improved and simplified access to the public. I heard during the debate this charity can distribute funds only to the charity and from that charity it might be distributed to the individual. I would like to understand how the proposed change improves and simplifies access to the public compared to what we have today. The second is the reason that reasonable costs will be deducted according to agreed budgets, I would like to know the state of how much it will cost to run and what will be the implications of the cost to implement this scheme in this form.

13.2.4 Senator I.J. Gorst:

I put in my request to speak during the main debate. It has been slightly overtaken. I am aware the Minister has previously deferred the discussion of this proposal to allow Scrutiny to do their work. It is unfortunate that Scrutiny still have questions so it is entirely for the Minister to decide how she would wish to proceed. It seems clear to me, and I beg your blushes, that the Jurats and all those currently involved are satisfied and have raised no objection to what the Treasurer via the Minister for Treasury and Resources is proposing. Perhaps I am one of the few who has first-hand experience of the J.C.F. I am pleased that Scrutiny were reassured when they met members of the J.C.F. and I also remind Members that this is a trial period. The J.C.F. would be obliged, under the terms of the arrangement, to issue funds in line with the trustee - which will become the public trustee, we hope in due course - would require, which again would go back to the original trust deed as amended. I do not share the concern that Members have raised. If the mover of this proposition is asking for a 3-week period to answer those or have further details on those relatively straightforward questions, I would have thought the Solicitor General might have been able to advise on the removal of the word "philanthropic" and whether that materially impacted the terms of distributions from the fund.

[17:15]

I would not expect it would because there were other safeguards required and would be put in place. If the mover has these questions and then the questions about distribution to individuals, which I

think could be straightforwardly managed with the arrangements the Treasurer would have, they are not insurmountable and could be dealt with either today in the Minister's summing up or in a straightforward manner in time for a short delay. I leave that to the Minister to opine upon.

13.2.5 Senator S.C. Ferguson:

I would like to comment that it also appears from reading the proposition that there is an intention to change the objectives. Deputy Morel has already mentioned objectives and what these funds are for, and it seems to me that we are setting up a magic money tree so I think we need clarification.

13.2.6 Deputy M.R. Higgins:

I would like to follow through on what Senator Vallois said. I am very concerned about the impact on the Greville Bathe Fund and the lack of transparency. I have accessed this fund in the past for constituents and it has provided valuable assistance to individuals in need when States departments have been intransigent and unsympathetic to individuals and their situation. These funds are very important for helping those people who fall through the cracks and I would hope in the reference back we get full information about what will happen to the Greville Bathe Fund and especially the impact on individuals.

13.2.7 Deputy J.H. Young:

I think the proposal to have a reference back is a good solution. I agree with the 2 points being highlighted. I feel in the situation that the Scrutiny report has raised so many issues that it would be irresponsible to discount it so I think we need to have a chance to have those questions answered. I would like to add a further area that follows on from Senator Vallois and Deputy Gardiner. I listened carefully to what the Solicitor General said about the role of the Treasurer. The Treasurer has a fiduciary duty and is therefore subject to all the ins and outs of the trust law of Jersey, which is an extremely complicated matter. As far as I know, our Treasurer is a specialist in trusts or private finance and I ask myself the question: is it right to have an arrangement where we already have a very heavy professional responsibility on our Treasurer, who we absolutely trust, for public money under the Public Finances Law, and is it right that we effectively ask him to take on 2 jobs? Inevitably conflicts are likely to arise, particularly when monies are being distributed through the private funds to private individuals and I would like an external opinion to be added in there. I suggest we ask the Comptroller and Auditor General for a view of the appropriateness of that arrangement of combining those 2 roles and, if necessary, to take independent legal advice on that and how that can be managed. It is a difficult situation and I want to be constructive and find a solution because I can understand how the Jurats had come to the point where, with the scale of these monies and the importance of it, they cannot carry on. I shall be supporting the reference back and I hope the Minister sees that as a sensible thing to do because if we are to have a framework of change that could set a pattern for other funds, I think it is important to get it right from the off.

The Bailiff:

Does any other Member wish to speak on the matter of the reference back? If no other Member wishes to speak on the reference back, I close the debate and call upon Senator Moore to respond.

13.2.8 Senator K.L. Moore:

I thank all those contributors who, with the exception of Senator Gorst, have expressed their various concerns and desires to receive greater understanding of the intentions behind the proposition. It would be a shame, and I think we all agree, to see Members vote against this proposition that is ultimately the position we would be placed in and, as I was advocating in my earlier speech, is not what we all want to do. We understand there is a need to offer an alternative solution to Jurats. However, we would like to have our points answered in relation to governance and accountability,

particularly the issue around the impact upon individual cases. Senator Gorst spoke late on in this and suggested these points could be addressed overnight, but they have not as yet been addressed and it is clear that needs to be addressed properly by some amendments to the proposition. It would be a great preference if that was a job taken on by the Minister herself, given that we all have considerable pressures on our workload at the moment, and I take full responsibility for the delay reaching this unseemly point in debate. It should have perhaps been dealt with at an earlier point but I made this case in my speech that there was not sufficient time to make amendments that we considered were necessary. I thank Members for their support in this and ask for the appel.

The Bailiff:

The appel is called for. I ask the Greffier to place a voting link in the chat. The vote is on a reference back and I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition for a reference back has been adopted:

| POUR: 28 | CONTRE: 13 | ABSTAIN: 1 |
|----------------------------|---------------------------|--------------------|
| Senator S.C. Ferguson | Senator L.J. Farnham | Deputy of St. Ouen |
| Senator T.A. Vallois | Senator J.A.N. Le Fondré | |
| Senator K.L. Moore | Connétable of Trinity | |
| Senator S.W. Pallett | Connétable of St. Ouen | |
| Senator S.Y. Mézec | Deputy J.A. Martin (H) | |
| Connétable of St. Lawrence | Deputy of Grouville | |
| Connétable of St. Brelade | Deputy K.C. Lewis (S) | |
| Connétable of Grouville | Deputy J.M. Maçon (S) | |
| Connétable of St. Peter | Deputy S.J. Pinel (C) | |
| Connétable of St. Mary | Deputy S.M. Wickenden (H) | |
| Connétable of St. Martin | Deputy L.B.E. Ash (C) | |
| Connétable of St. John | Deputy G.C.U. Guida (L) | |
| Connétable of St. Clement | Deputy of St. Peter | |
| Deputy G.P. Southern (H) | | |
| Deputy M.R. Higgins (H) | | |
| Deputy of St. Martin | | |
| Deputy L.M.C. Doublet (S) | | |
| Deputy of St. Mary | | |
| Deputy G.J. Truscott (B) | | |
| Deputy J.H. Young (B) | | |
| Deputy K.F. Morel (L) | | |
| Deputy of St. John | | |
| Deputy M.R. Le Hegarat (H) | | |
| Deputy S.M. Ahier (H) | | |
| Deputy R.J. Ward (H) | | |
| Deputy C.S. Alves (H) | | |
| Deputy K.G. Pamplin (S) | | |
| Deputy I. Gardiner (H) | | |

The Bailiff:

That ends for the time being this particular matter. We are 5 minutes before the time I would normally suggest we ask for an adjournment. The adjournment is proposed. The Assembly stands adjourned until 9:30 tomorrow morning.

ADJOURNMENT

[17:25]