

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 15th JANUARY 2019

COMMUNICATIONS BY THE PRESIDING OFFICER.....	9
1.1 Welcome to His Excellency the Lieutenant Governor	9
1.2 Appointment of Mr. T.J. Le Cocq as Bailiff	9
1.3 Scroll of wishes for the future from the Bosdet Foundation.....	9
1.4 Ruling on departmental officers in precincts of the States	9
1.4.1 Deputy M. Tadier of St. Brelade:.....	10
1.4.2 Senator I.J. Gorst:	10
1.4.3 Senator J.A.N. Le Fondré:	11
1.4.4 Senator L.J. Farnham:	11
1.4.5 Senator S.C. Ferguson:	12
1.4.6 Connétable M.K. Jackson of St. Brelade:	12
1.4.7 Deputy M.R. Higgins of St. Helier:	12
QUESTIONS.....	12
2. Written Questions.....	12
2.1 SENATOR S.W. PALLETT OF THE CHIEF MINISTER REGARDING THE STATES COMMUNICATIONS UNIT: [WR.1/2019].....	13
2.2 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE ASSISTANT CHIEF MINISTER REGARDING LICENCES GRANTED TO OFF-ISLAND CARE PROVIDERS: [WR.4/2019]	15
2.3 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING STATES EXPENDITURE ON OFF-ISLAND AND ON-ISLAND SERVICE PROVIDERS RESPECTIVELY: [WR.5/2019]	16
2.4 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING EXPENDITURE ON THE E-GOV PROJECT: [WR.6/2019]	16
2.5 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING EXPENDITURE ON THE GOVERNMENT’S DIGITAL TRANSFORMATION PROGRAMME: [WR.7/2019].....	17
2.6 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX STATUS OF NON-RESIDENT CARERS WHO WORK IN JERSEY TO PROVIDE ‘LIVE IN’ CARE: [WR.8/2019]	18
2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE ANNOUNCEMENT THAT 126 MEMBERS OF THE HEALTH AND COMMUNITY SERVICES DEPARTMENT HAD SEEN THEIR GRADES AND PAY WRONGLY INCREASED: [WR.9/2019].	19

2.8	DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE LODGING OF A PROPOSITION TO REQUIRE MINISTERS TO ASSESS THE IMPACT ON CHILDREN’S RIGHTS OF EVERY LAW AND REGULATION: [WR.10/2019]	20
2.9	DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE PROVISION OF A COPY OF THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD TO EVERY STATES OF JERSEY EMPLOYEE: [WR.11/2019].....	21
2.10	THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE APPOINTMENT OF FIREFIGHTERS: [WR.12/2019].....	22
2.11	DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE DEVELOPMENT OF PYROTECHNIC ARTICLES REGULATIONS: [WR.13/2019]	22
2.12	DEPUTY S.M. AHIER OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF HOSPITAL CONSULTANTS WHO HAVE LEFT JERSEY TO TAKE UP ANOTHER POSITION IN THE LAST 10 YEARS: [WR.14/2019]	23
2.13	DEPUTY R.J. WARD OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING A REVIEW OF TEACHERS’ TERMS AND CONDITIONS OF EMPLOYMENT: [WR.15/2019].....	24
2.14	DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING EXPENDITURE ON BREXIT PREPARATIONS: [WQ.16/2019]	25
2.15	DEPUTY R.J. WARD OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING COMPARISONS BETWEEN PRIVATE SECTOR AND PUBLIC SECTOR PAY AWARDS: [WQ.17/2019].....	25
2.16	DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF ZERO-HOURS AND SHORT-TERM CONTRACTS IN HER DEPARTMENT: [WQ.18/2019]	26
2.17	DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE TREATMENT AT THE GENERAL HOSPITAL OF PEOPLE WITH MENTAL HEALTH PROBLEMS: [WQ.19/2019]... ..	26
2.18	DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE CONFINEMENT OF CHILDREN IN CARE IN SAFE PLACES OR HOLDING CELLS: [WQ.20/2019]	27
2.19	DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR CHILDREN AND HOUSING REGARDING THE WAITING LIST FOR ISLANDERS SEEKING ACCOMMODATION VIA THE AFFORDABLE HOUSING GATEWAY: [WQ.21/2019]	28
2.20	DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE ORGANISATIONS WHICH REGISTERED AS A CHARITY BY THE END OF 2018: [WQ.22/2019].....	30
2.21	DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR THE ENVIRONMENT REGARDING INCIDENTS OF FLY-TIPPING: [WQ.23/2019].....	31
2.22	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING EXPENDITURE ON RENTING PREMISES FOR USE BY STATES DEPARTMENTS: [WQ.24/2019]	33
2.23	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE USE OF CRIMINALITY CHECKS IN DETERMINING APPLICATIONS FOR SETTLED STATUS: [WQ.25/2019]	33

2.24	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR CHILDREN AND HOUSING REGARDING THE RE-ESTABLISHMENT OF THE RENT TRIBUNAL: [WQ.26/2019]	34
2.25	DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF RECIPROCAL HEALTH AGREEMENTS: [WQ.27.2019]	34
2.26	SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING STATES MEMBERS' DECLARATIONS OF INTEREST: [WQ.28/2019]	35
2.27	SENATOR S.Y. MÉZEC OF H.M. ATTORNEY GENERAL REGARDING THE BAILIFF'S ROLE AS 'GUARDIAN OF THE CONSTITUTION': [WQ.30/2019].....	38
2.28	SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING THE ESTABLISHMENT OF THE NEW GROWTH, HOUSING AND ENVIRONMENT DEPARTMENT: [WQ.31/2019]	43
2.29	THE CONNÉTABLE OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE LEVEL OF PAYMENTS MADE TO INTERIM DIRECTPRS GENERAL: [WQ.32/2019]	44
2.30	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING FINANCIAL ASSISTANCE PROVIDED TO THE JERSEY REDS RUGBY CLUB: [WQ.33/2019]	44
2.31	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGTARDING POLICY PROPOSALS IN RESPECT OF THE PRIMARY CARE SECTOR: [WQ.34/2019].....	45
2.32	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE REDUCTION IN ANTICIPATED FEE INCOME FROM THE CARE SECTOR IN 2018: [WQ.35/2019].....	47
2.33	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RESPONSIBILITY FOR ENFORCEMENT ACTIONS UNDERTAKEN ON BEHALF OF THE STATES OF JERSEY: [WQ.36/2019].....	47
3.	Oral Questions	48
3.1	Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding a statement condemning the resumption of whaling by Japan: [OQ.3/2019].....	48
	Deputy J.H. Young of St. Brelade (The Minister for the Environment):.....	48
3.1.1	Deputy R.J. Ward:.....	48
3.2	Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the rationale behind the decision to grant £100,000 to the Jersey College for Girls Foundation for marketing the school to Chinese students: [OQ.12/2019]	49
	Deputy L.B.E. Ash of St. Clement (Assistant Minister for Treasury and Resources - rapporteur):	49
3.2.1	Deputy M.R. Higgins:.....	50
3.2.2	Connétable A.S. Crowcroft of St. Helier:	50
3.2.3	Senator K.L. Moore:	50
3.2.4	Deputy M. Tadier:.....	51
3.2.5	Deputy M. Tadier:.....	51
3.2.6	Deputy K.F. Morel of St. Lawrence:	51
3.2.7	Deputy R.J. Ward:.....	52
3.2.8	Senator S.C. Ferguson:	52
3.2.9	Deputy J.H. Perchard of St. Saviour:.....	52

3.2.10 Deputy M.R. Higgins:	53
3.3 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding the progress made by the working party established to examine the role of the Bailiff: [OQ.2/2019]	53
Deputy R. Labey of St. Helier (Chairman, Privileges and Procedures Committee):	53
3.3.1 Senator S.Y. Mézec:	53
3.3.2 Senator S.Y. Mézec:	54
3.4 Deputy D. Johnson of St. Mary of the Minister for Treasury and Resources regarding the introduction of waste charges: [OQ.14/2019]	54
Deputy S.J. Pinel (The Minister for Treasury and Resources):.....	54
3.4.1 The Deputy of St. Mary:	54
3.4.2 The Deputy of St. Mary:	54
3.5 Deputy L.M.C. Doublet of St. Saviour of the Chief Minister regarding the implementation of the ‘United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees’ (P.63/2017): [OQ.1/2019]	55
Deputy C.F. Labey of Grouville (Assistant Chief Minister - rapporteur):.....	55
3.5.1 Deputy L.M.C. Doublet:	55
3.5.2 Deputy L.M.C. Doublet:	56
3.5.3 Deputy K.F. Morel:.....	56
3.5.4 Deputy R.J. Ward:.....	56
3.5.5 Deputy M. Tadier:.....	56
3.5.6 Deputy L.M.C. Doublet:	56
3.6 The Connétable of St. Brelade of the Minister for Treasury and Resources regarding domiciliary care cost exemptions from G.S.T: [OQ.10/2019].....	57
Deputy S.J. Pinel (The Minister for Treasury and Resources):.....	57
3.6.1 The Connétable of St. Brelade:	57
3.6.2 Deputy K.F. Morel:.....	57
3.7 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding the role of the new Director General of Health and Community Services in relation to Mental Health Services: [OQ.5/2019]	58
Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):.....	58
3.7.1 Deputy K.G. Pamplin:.....	58
3.7.2 Deputy K.G. Pamplin:.....	59
3.8 Deputy M. Tadier of the Minister for Health and Social Services regarding the continued employment of a Pain Consultant following comments made to the media regarding the use of medicinal cannabis: [OQ.15/2019]	59
The Deputy of St. Ouen (The Minister for Health and Social Services):	59
3.8.1 Deputy M. Tadier:.....	59
3.8.2 Deputy M.R. Higgins:.....	60
3.8.3 Deputy R.E. Huelin of St. Peter:.....	60
3.8.4 Deputy M. Tadier:.....	60
3.9 Deputy S.M. Ahier of St. Helier of the Minister for Health and Social Services regarding charges for hospital prescriptions issued by the Accident And Emergency Department, when filed outside the hospital at local pharmacies: [OQ.7/2019]	61

The Deputy of St. Ouen (The Minister for Health and Social Services):	61
3.9.1 Deputy S.M. Ahier:.....	61
3.10 Deputy R.J. Ward of the Minister for Economic Development, Tourism, Sport and Culture regarding the provision of a secure and reliable ferry service for the Island: [OQ.4/2019]	62
Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):	62
3.10.1 Deputy R.J. Ward:.....	62
3.10.2 The Connétable of St. Brelade:	63
3.10.3 Deputy K.F. Morel:	63
3.11 The Connétable of St. Brelade of the Minister for Home Affairs regarding contingency plans in place should drones compromise safety at Jersey Airport: [OQ.11/2019]	63
Connétable L. Norman of St. Clement (The Minister for Home Affairs):.....	63
3.11.1 The Connétable of St. Brelade:	63
3.11.2 The Connétable of St. Brelade:	63
3.11.3 The Connétable of St. Brelade:	64
3.12 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding how questions from elected States Members are either approved or disallowed: [OQ.9/2019]	64
Deputy R. Labey (Chairman, Privileges and Procedures Committee):.....	64
3.12.1 Senator S.Y. Mézec:.....	65
3.12.2 Deputy M.R. Higgins:	65
3.12.3 Deputy M. Tadier:	65
3.12.4 Deputy M. Tadier:	66
3.12.5 Senator S.Y. Mézec:.....	66
3.13 Deputy K.G. Pamplin of the Minister for Health and Social Services regarding plans to support Islanders’ medical needs in the event of a ‘No Deal Brexit’: [OQ.6/2019]	66
The Deputy of St. Ouen (The Minister for Health and Social Services):	66
3.13.1 Deputy K.G. Pamplin:	67
3.13.2 Deputy K.F. Morel:	67
3.13.3 The Deputy of St. Mary:	67
3.13.4 Deputy K.G. Pamplin:	68
3.14 Deputy M.R. Higgins of the Minister for Economic Development, Tourism, Sport and Culture regarding the provision of additional funding to the Jersey Reds Rugby Club: [OQ.13/2019]	68
Senator S.W. Pallett (Assistant Minister for Economic Development, Tourism, Sport and Culture - rapporteur):	68
3.14.1 Deputy M.R. Higgins:	68
3.14.2 Deputy M.R. Higgins:	69
4. Questions to Ministers without notice - The Minister for Education	69
4.1 Senator K.L. Moore:	69
Senator T.A. Vallois (The Minister for Education):	69
4.1.1 Senator K.L. Moore:	70
4.2 The Connétable of St. Helier:	70
4.2.1 The Connétable of St. Helier:	70

4.3	Deputy S.M. Ahier:.....	71
4.4	Deputy K.G. Pamplin:.....	71
4.5	Deputy R.J. Ward:.....	71
4.6	The Connétable of St. Brelade:.....	71

Information subsequently provided by the Minister for Education: 72

4.7	Deputy M.R. Higgins:.....	73
4.8	Deputy K.F. Morel:.....	73
4.9	Deputy M. Tadier:.....	73
4.10	Deputy J.H. Perchard:.....	74

5. Questions to Ministers without notice - The Minister for Economic Development, Tourism, Sport and Culture 74

5.1	Deputy R.J. Ward:.....	74
	Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):	74
5.2	Deputy S.M. Ahier:.....	74
5.3	The Connétable of St. Brelade:.....	75
5.4	The Connétable of St. Helier:	75
5.5	Deputy K.G. Pamplin:.....	75
5.6	Deputy K.F. Morel:.....	75
5.7	Deputy L.M.C. Doublet:	76
5.8	Deputy J.M. Maçon:	76
5.9	Deputy M.R. Higgins:.....	76
5.10	Senator K.L. Moore:	77
5.11	Deputy G.J. Truscott of St. Brelade:.....	77

Information subsequently provided by the Minister for Economic Development, Tourism, Sport and Culture:..... 78

LUNCHEON ADJOURNMENT PROPOSED 78

LUNCHEON ADJOURNMENT 78

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY 78

6. The Minister for External Relations - statement regarding preparations for Brexit . 78

6.1	Senator I.J. Gorst (The Minister for External Relations):.....	79
6.1.1	Deputy K.F. Morel:.....	81
6.1.2	Deputy K.F. Morel:.....	82
6.1.3	Deputy R.J. Ward:.....	82
6.1.4	Deputy R.J. Ward:.....	82
6.1.5	Connétable D.W. Mezbourian of St. Lawrence:.....	82
6.1.6	The Connétable of St. Brelade:.....	83
6.1.7	Senator S.W. Pallett:	83
6.1.8	Deputy G.J. Truscott:.....	84
6.1.9	Deputy M.R. Le Hegarat of St. Helier:	84
6.1.10	Deputy M. Tadier:	85
6.1.11	Deputy M. Tadier:	85
6.1.12	Deputy J.M. Maçon:.....	85

7. The Chief Minister - statement regarding public sector industrial action..... 86

7.1	Senator J.A.N. Le Fondré (The Chief Minister):.....	86
7.1.1	Deputy M. Tadier:.....	88

7.1.2 Deputy M. Tadier:.....	88
7.1.3 Senator K.L. Moore:	88
7.1.4 The Connétable of St. Brelade:	89
7.1.5 Deputy J.M. Maçon:	90
7.1.6 Deputy K.F. Morel:.....	90
7.1.7 Deputy R.J. Ward:.....	91
7.1.8 Deputy J.H. Perchard:	91
PUBLIC BUSINESS.....	92
8. Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201- (P.138/2018).....	92
8.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):.....	92
8.2 Senator I.J. Gorst:	93
9. Draft Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 201- (P.139/2018)	94
9.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):.....	94
10. Draft Alternative Investment Funds (Amendment) (Jersey) Regulations 201- (P.140/2018).....	95
10.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):.....	95
11. Draft Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201- (P.141/2018)	97
11.1 Connétable R.A. Buchanan of St. Ouen (Member, States Employment Board - rapporteur):	97
12. Draft Air Navigation (Rules of the Air) (Amendment) (Jersey) Regulations 201- (P.142/2018).....	99
12.1 Senator I.J. Gorst (The Minister for External Relations):.....	99
13. Children (Jersey) Law 2002: repeal of Article 79 (P.144/2018)	101
13.1 Deputy M.R. Le Hegarat:.....	101
13.1.1 Senator S.Y. Mézec:.....	102
13.1.2 Deputy L.M.C. Doublet:	104
13.1.3 Deputy T. Pointon of St. John:.....	105
13.1.4 Deputy K.G. Pamplin:.....	106
13.1.5 Senator T.A. Vallois:.....	107
13.1.6 Deputy G.C. Guida of St. Lawrence:	108
Mr. R.J. MacRae, H.M. Attorney General:	108
13.1.7 Deputy M. Tadier:	108
13.1.8 The Deputy of St. Mary:	109
13.1.9 Connétable J. Le Bailly of St. Mary:.....	110
13.1.10 Senator S.C. Ferguson:.....	110
13.1.11 The Deputy of St. Peter:.....	111
13.1.12 The Attorney General:	113
13.1.13 Deputy K.F. Morel:.....	114
13.1.14 Deputy J.H. Perchard:	114
13.1.15 Deputy R.J. Ward:.....	114
13.1.16 Senator K.L. Moore:	115
13.1.17 Deputy J.A. Martin of St. Helier:.....	115

13.1.18	Deputy M.R. Le Hegarat:.....	115
ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS.....		117
14.	Deputy R. Labey (Chairman, Privileges and Procedures Committee):	117
ADJOURNMENT.....		117

[10:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

First of all, in the usual way, may I welcome His Excellency on behalf of all Members?
[**Approbation**]

1.2 Appointment of Mr. T.J. Le Cocq as Bailiff

Secondly, welcome back to all Members after the Christmas break. I hope, from the Chair, you all had a good break and you have come back renewed to give effect to all those New Year resolutions the Dean was just talking about in church a moment ago, and that they will last longer than the 2 weeks to which he was referring. As Members will know, the States concluded their business before Christmas during the week of 3rd December. Early the following week, I received notice from His Excellency that Her Majesty the Queen had been pleased to approve the appointment of the present Deputy Bailiff, Mr. Timothy Le Cocq, as my successor. [**Approbation**] It was announced to the Island on 14th December but it is the first occasion on which I have been able formally to announce the appointment in this Assembly, and for the sake of good order, I now do so. I would just like to take the opportunity because I will not have one in a public way to say that it gives me pleasure to make the announcement today and to offer him the warmest good wishes for his term of office as Bailiff.

1.3 Scroll of wishes for the future from the Bosdet Foundation

Next, I would like to advise Members that I received again, after the last sitting but before Christmas, the wishes from the Bosdet Foundation for the future, and the detail can be found on volunteer.je, as I understand it. The wishes are going to be posted in the Members Room next door, so Members will have the opportunity to look at them.

1.4 Ruling on departmental officers in precincts of the States

Finally, I wish to say this: I have been informed by the chairman of the Privileges and Procedures Committee and by others that there has been considerable concern expressed by some Members of the number of officers using the corridor area underneath the public gallery during the States meetings between 3rd and 6th December. Some departmental officers have also frequented the coffee room, no doubt at the request of one or more Members. The chairman of the Privileges and Procedures Committee has advised me that although it has been customary for small numbers of officers supporting Ministers in important debates to use that room under the public gallery, the officers present during the December sitting was on a much larger scale than previously experienced and in the Committee's view was not acceptable. Article 33 of the States of Jersey Law provides that: "No stranger shall be entitled as of right to enter or remain in the precincts of the States and the Bailiff may, at any time, order any stranger to withdraw from those precincts." This does not apply to the Jurats or to officers of the Bailiff's Chambers or the Judicial Greffe who are passing through these parts of the building, which give direct access to the States Chamber because it is necessary, on occasion, in order to gain access to the Royal Court. The interpretation provisions in the States of Jersey Law define the precincts of the States as meaning the States Chamber, any rooms while provided for the exclusive use or accommodation of Members of the States, the galleries and places provided for the use or accommodation of strangers, members of the public and representatives of the press. While the States are meeting it includes those parts of the building which give direct access to the States Chamber. "Stranger" means any person other than the Deputy Bailiff, a Member of the States, or an officer of the States, namely the Greffier, the Deputy Greffier and Acting Greffier or the

Viscount. The practice which led to officers using the corridor beneath the public gallery during important debates was convenient for Ministers and, before them, Committee Presidents. It enabled the officers to listen to the debate and to have easy access to the ushers who could take a message to the Committee President or Minister concerned. That is no longer necessary because electronic communication is such that it is easy to listen to the debates remotely and to communicate with Ministers remotely. So there is no reason to maintain the permission, which had been given to officers to use the corridor underneath the public gallery, and from now on I shall be enforcing the restriction, which is contained in the law, as to strangers entering the precincts. Individual Members should also be careful not to cause a breach of the rules by inviting officers to join them in the precincts. While that might be convenient for the individual Member it trespasses on the rights of all the other Members who are entitled to privacy once they enter the precincts of the States and to go about their duties without any interference. So the precincts for these purposes, when the Assembly is sitting, mean the corridor or room below the public gallery, the corridors immediately surrounding the Chamber, the coffee room, the room opposite the coffee room, the lobby area between the 2 rooms, the Members' staircase and the Members' rooms on the ground floor. I recognise that it may well be convenient during debates for Ministers or other Members to have private discussions with officers. It seems to me that perhaps during States meetings either the Blampied Room or the Le Capelain Room might be available for that purpose but if for any reason these rooms are needed for committee or panel meetings the Privileges and Procedures Committee might consider the matter further, with a view to designating some other areas of the precincts on the ground floor for the purposes of such meetings and, in that event, I will willingly revisit this ruling.

1.4.1 Deputy M. Tadier of St. Brelade:

I have a question on the statement. Can it be established whether any of these strangers have electronic passes, which allow them to enter the building and enter these parts of the building freely, and if so, on what basis and by whom those passes have been given?

The Bailiff:

It certainly can be established. I will ask the Greffier to make sure that it is established because the answer is that there should be a limit to the passes, which are distributed, and there ought not to be access to the precincts except to those parts which are permitted. So far as the use of the Le Capelain and Blampied Rooms are concerned, a visitor/stranger coming to the front desk at the Royal Court end of the building can be let through by the person on guard at the desk, as it were, as far as those areas and of course cannot get through into this part of the building because the person on that desk at the Royal Court end does not have the ability to open this door. So you would need to be either issued with a card or be taken through by a person who has legitimately got a card. But that question will be asked, and the Greffier will make the necessary inquiries.

1.4.2 Senator I.J. Gorst:

I have 2 questions arising. First, where do you see the role of constituency work and surely it cannot be the case that constituents should not have access to this building? Many Members do not have facilities outside of this building. Secondly, I wonder if you could confirm who you have consulted with before making this decision please.

The Bailiff:

I have certainly consulted with the chairman of the Privileges and Procedures Committee who wrote to me in the first place. I have otherwise just applied the law. But I thought I had made it plain that I will revisit the ruling once the Privileges and Procedures Committee have had the opportunity of considering the very sort of thing you have just raised. On the whole, it seemed to me that Members will probably not be seeing their constituents during the course of debates but that may be wrong. If that is so, then the Members' rooms underneath this part, at the far end, could easily be freed from

the restriction for the precincts of the States. What is essential is that Members of the States conducting their business in this Chamber should feel protected, should feel free of any possible interference. That is important for all Members.

1.4.3 Senator J.A.N. Le Fondré:

Just seeking clarification, I note the comments you have made obviously in terms of the interpretation of the law, in relation to the list of people you identified who can access here, does that therefore mean that Scrutiny officers, for example, should not also be entering the precincts of the States? I assume it must do.

The Bailiff:

The officers of the States who are excluded, who are free of the definition of “stranger”, are the Greffier, the Deputy Greffier or the Acting Greffier. On the face of it, and again I am ready to revisit it, it seems to me that Scrutiny officers are in the same position as officers advising Ministers. The Greffier is shaking his head but I would be surprised if that is wrong. The Greffier has just advised me, we are both right. It is a case where the law and the practice might run into conflict. As far as the law is concerned, I am right in my construction of the law. As far as the practice is concerned, the Greffier says he could not run Hansard or the screening if his officers were not permitted in. That is not the same position as Scrutiny officers. I think Scrutiny officers are ... I am sorry, wait a minute. **[Laughter]** The Scrutiny officers mostly do the webcasting so I will make an exception for them, for the time being, but the Privileges and Procedures Committee need to have discussion with the Greffier to make sure that an appropriate solution is found. That does not affect the general thrust of the ruling.

Senator J.A.N. Le Fondré:

I fully accept where Scrutiny Officers are being used for webcasting that would make sense, but if a Scrutiny Officer is delivering a message to a chairman of Scrutiny, I would assume that was in their role as a Scrutiny Officer and therefore that would not apply.

The Bailiff:

They should be, if they are delivering a role as a Scrutiny officer to a Scrutiny Panel chairman, I cannot myself see any distinction between them and the civil servants who are advising Ministers.

[10:45]

1.4.4 Senator L.J. Farnham:

I am slightly surprised that this ruling has been made without further consultation and I would also find it difficult to believe that the presence of officers in this Assembly is anything other than helpful. I am very surprised to find Members find their presence intimidating, as has been suggested.

The Bailiff:

Always open to you to move an amendment of the law.

Senator L.J. Farnham:

Thank you. Also, it is not convenient to Ministers and Members to have an officer present; at times it is absolutely essentially, especially when we are discussing and debating complex pieces of legislation. As far as officers being present in other parts of the building, I think notwithstanding the digital age is upon us, it is often impractical to be checking emails and messages while you are in the middle of a debate or delivering a speech. The point I am trying to make is where does this stop? Do we shut the public gallery because of a large presence of people in the public gallery? That has not been intimidating but that certainly does, I think, sway the mood of the Assembly at times. I just

wanted to make those points. I would hope that there can be further consultation and this perhaps can be reconsidered in early course.

The Bailiff:

I do not imagine, Minister, that you are consulting with officers while you are making speeches, on the whole, because that would be quite surprising. I have no doubt the chairman of the Privileges and Procedures Committee has heard what you have just said and he will be able to think about it further. As I say, the ruling that I have just made is to draw a line under what was taking place in December, which I have to say did not surprise me, and concerns were expressed by numbers of Members. If I can say from the Chair, I myself saw officers looking over the bar of the door there and I thought that was potentially intrusive in the workings of the States. **[Approbation]**

1.4.5 Senator S.C. Ferguson:

I was just going to add to your comments that in fact I heard a number of complaints about active lobbying by officers as Members went in and out of that door. My sympathies are with them. But can I suggest that we refer this ruling back to Privileges and Procedures and ask them to go through it rather more thoroughly, with respect to the chairman of P.P.C. (Privileges and Procedures Committee). Perhaps a slightly wider consultation with people, such as the Scrutiny Department and the Chairmen's Committee, and perhaps come back to you with a slightly broader...

The Bailiff:

Senator, I made it plain. I am absolutely willing to revisit the ruling. What I have done is draw a firm line for the time being while it gets further consideration by the Privileges and Procedures Committee, and no doubt with others.

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

Notwithstanding the comments of the previous speaker, with which I agree, I would just ask you not to overlook the ever-important tea lady in the room behind. **[Approbation]**

The Bailiff:

If I may say so, that is an extremely good point and she has immediate licence.

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

I agree with your ruling but could I just also draw attention to the fact of the media? I think you mentioned them and they are obviously present at various times to report on the proceedings in the States. I do not think we should impinge on that.

The Bailiff:

They are in the public gallery.

QUESTIONS

2. Written Questions

Senator J.A.N. Le Fondré:

Can I apologise on 3 questions because it does not appear that 3 answers have made it into the pack? I do know they were submitted late but understood arrangements were in place to put them loose on Members' desks this morning. That obviously has not happened. I will chase them up as soon as possible. I do apologise to the Members concerned.

The Bailiff:

There may be other reasons why photocopying is not immediately possible in the States Greffe this morning.

2.1 SENATOR S.W. PALLETT OF THE CHIEF MINISTER REGARDING THE STATES COMMUNICATIONS UNIT: [WR.1/2019]

Question

Will the Chief Minister provide the following information?

- (a) The total number of staff employed within the States Communications Unit –
 - (i) on 16th May 2018; and
 - (ii) on 16th November 2018;
- (b) The number of vacancies within the States Communications Unit –
 - (i) on 16th May 2018; and
 - (ii) on 16th November 2018;
- (c) The cost of all interim staff employed in the States Communication Unit –
 - (i) between 16th November 2017 and 16th May 2018; and
 - (ii) between 16th May 2018 and 16th November 2018;
- (d) The total cost of the States Communications Unit –
 - (i) between 16th November 2017 and 16th May 2018; and
 - (ii) between 16th May 2018 and 16th November 2018;
- (e) The budget for the States Communications Unit for –
 - (i) 2018; and
 - (ii) 2019;

and will the Chief Minister also provide a breakdown of remuneration for all staff employed within the States Communications Unit from the lowest to the highest in bands of £10,000 (starting with less than £30,000 and then between £30,000 and £40,000 and so on)?

Answer

The States ‘Communications Unit’ was a small team of four which served the previous Chief Minister. Alongside this small team, multiple teams and individuals across government were also engaged in communications, either as their sole role, or as part of their role. In addition, departments utilised numerous contracts with external agencies for marketing, design and PR services. An audit into communications carried out in October and November 2017 found that it was not possible to identify with any confidence what the costs of communications were at the time, either in terms of staff or in external spend.

Following the audit, the new Communications Directorate was formally established in July 2018 as part of the new Target Operating Model, as approved by the previous Council of Ministers, to consolidate communications staff into a single government communications function.

The new communication function will also undertake Internal Communications and Marketing, Digital and Design activities - which were either not carried out previously or outsourced to agencies.

A further review of external spending on communications, circulated to States Members in November 2018, showed that external spend on communications had increased by nearly half under the previous government from £623,000 in 2015 to £921,000 in 2017. However, it also showed that, under the new structure, external spending is being reduced significantly, with graphic design costs for campaigns and projects being cut by two thirds, compared with external agency costs. The Communications Directorate expects to generate a net saving of around £200,000 a year by bringing graphic design work in house.

The figures below refer to the new Communications Directorate, since the Communications Unit no longer exists.

- (a) The total number of staff employed within the States Communications Directorate –
- (i) on 16th May 2018 was 21, including 4 FTE employed via agency contracts. These posts include members of the former Communications Unit and departmental communications officers still in post at the time, as well as agency communications staff working on HR projects and internal communications.
 - (ii) on 16th November 2018 was 25, including 1 FTE employed via agency contracts. These posts include communications officers and assistant communications officers in Press Office and Internal Communications, graphic designers, marketing and social media officers, and heads of communications assigned to government departments.
- (b) The number of vacancies within the States Communications Directorate –
- (i) on 16th May 2018 was 15, based on the potential maximum Directorate size of 36.
 - (ii) on 16th November 2018 was 6, based on the revised maximum Directorate size of 32 (following ongoing reviews of its capability and capacity, the Directorate has removed one permanent role from its structure and does not intend to fill 3 other vacancies). In December 2018, appointments were made to 4 of the 6 vacancies and 2 further roles remain to be filled.
- (c) The cost of all interim staff employed in the States Communication Directorate –
- (i) between 16th November 2017 and 16th May 2018 is £113,684, which includes agency fees.
 - (ii) between 16th May 2018 and 16th November 2018 was nil.
- (d) The total cost of the States Communications Directorate –
- (i) between 16th November 2017 and 16th May 2018 is not available or applicable, since the Directorate did not exist and it is not possible to provide accurate costs to cover the wide range of permanent and contract/agency staff employed by the different departments prior to the new Directorate's establishment.

- (i) between 16th May 2018 and 16th November 2018 was £420,761. This represents only a partial year, since costs for the 21 individual communications staff remained with individual departments until July 2018, when a budget was made available for the new Communications Directorate, and the cost was further reduced by unfilled vacancies as previous staff left for new roles and recruitment was undertaken for their successors.

(e) The budget for the States Communications Directorate for –

- (ii) Costs for individual communications officers remained with individual departments until July 2018, when a budget was made available for the new Communications Directorate. The costs for the part-year to December 2018 was £461,000.
- (iii) 2019 is £1.55 million. This is the first full year in which the Directorate will operate and staff costs are fully centralised.

States of Jersey policy is not to provide information that identifies groups of fewer than ten employees, as doing so could enable the identification of individuals. I am therefore unable to provide a breakdown by each pay band, as requested, and instead can provide the following information:

- 11 employees are appointed within grade 7 to 10 and are paid a salary range of between £32,087 and £52,297
- 12 employees are appointed within grade 12 to 14 and are paid a salary range of between £58,257 and £82,961
- 1 employee is paid in accordance with Executive Pay Salaries
- 1 individual is paid via an agency.

As identified earlier in this answer, we do not have any clear information as to what was being spent on communications in earlier years, therefore it is not possible to completely compare costs before and after the formation of the new communications directorate.

2.2 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE ASSISTANT CHIEF MINISTER REGARDING LICENCES GRANTED TO OFF-ISLAND CARE PROVIDERS: [WR.4/2019]

Question

Will the Assistant Chief Minister, as Chairman of the Housing and Work Advisory Group, advise how many licences to work in the Island are currently in use by off-Island care providers in respect of 'live-in care' and, of these licences, how many are in use by self-employed carers and how many by corporate entities?

Answer

There are currently no non-resident undertakings that have a business licence in respect of 'live-in care'. This is due to the structuring and duration of any such arrangements, which likely mean that 'live-in care' is exempt from the requirements of the Law under Article 3(1)(i) of the CHWL Exemption Order, which exempts any activity of a resident undertaking involving the provision of domestic services to *not* more than 2 households, or Article 3(1) (n)(ii) which exempts any undertaking operating in Jersey for an aggregate period of 30 days or less in any period of 12 months.

2.3 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING STATES EXPENDITURE ON OFF-ISLAND AND ON-ISLAND SERVICE PROVIDERS RESPECTIVELY: [WR.5/2019]

Question

Will the Minister provide details of the amounts spent in each of 2017 and 2018 by States departments on on-Island service providers (i.e. corporate entities or sole traders incorporated or tax-resident in Jersey) as well as the amount spent during the same period on off-Island service providers?

Answer

Officers are working to produce a report that can extract the data needed to answer this question. It has not been possible to do so by the sitting of 15th January. The answer will be provided to the questioner and the Assembly as soon as it is available.

2.4 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING EXPENDITURE ON THE E-GOV PROJECT: [WR.6/2019]

Question

Further to statements from the Assistant Chief Minister in response to Oral Question 185/2018 that £10 million had been spent on the e-Gov project to date, will the Chief Minister provide a breakdown of that spending alongside the original expenditure forecast for each item?

Answer

The below table provides a breakdown of the budget and spend, including the original £10 million allocated and spent, and additional approved allocations:

		Approved Budget	Spend to date - 31/12/18	Returned to Contingency	Available budget
		£'000	£'000		£'000
Original eGov Budget		9,914	9,714		200
Additional Approved Budget					
	MD-TR-81-2018-0021:				
a. Funding for the digital ID build, implementation and run costs for 2018 - 2019.	https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=5808DB5A-D559-4A0A-BF1F-FF20C4E22DFE	860	510	0	350
	MD-TR-81-2017-0081				
b. Funding for approved expansion of programme scope and to cover the increased cost of resources	https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=8F256399-B5B1-4E6C-B597-DE74A3EFA263	1,925	1,586	22	317
	MD-TR-81-2017-0083				
c. Ongoing funding for staff and licences to run the new technology, delivered by the eGovernment programme, in line with the original business case. To cover 2017 – 2019.	https://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=361D8C2C-B673-4D9D-B4E7-E2C404E8C101	2,610	1429	311	870
	TOTALS	15,309	13,239	333	1,737

2.5 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING EXPENDITURE ON THE GOVERNMENT'S DIGITAL TRANSFORMATION PROGRAMME: [WR.7/2019]

Question

Will the Chief Minister provide a breakdown of spending to date on the Government's digital transformation programme, alongside the original expenditure forecast for each item?

Answer

The Modernisation and Digital Transformation Programme is estimated to have spent £371,674.00 to the end of 2018, as follows:

States of Jersey and Strategic Partner, EY Expenditure

	2018 Contract Forecast	2018 Contract Estimated Expenditure
	£	
Programme Management and Leadership	141,275.00	£ 113,170.00

Target Operating Model work stream	£	84,425.00	£	55,225.00
Corporate Portfolio Management Office work stream	£	118,400.00	£	98,004.00
Business Architecture work stream	£	96,700.00	£	65,500.00
Digital Strategy work stream	£	-	£	-
Investment Case work stream	£	-	£	49,410.00
Expenses (Travel, Accommodation, subsistence)	£	41,110.00	£	38,000.00
	£			
Subtotal:	£	481,910.00	£	419,309.00
	-£			
<i>Less Strategic Partner discount:</i>		<i>60,860.00</i>	-£	<i>60,860.00</i>
	£			
Total:	£	421,050.00	£	358,449.00

States of Jersey Modernisation and Digital Expenditure

	2018 Actual
Computer hardware and software	£ 12,508.00
Advertising and Publicity	£ 151.00
Accommodation and subsistence	£ 566.00
	£ 13,225.00
	£
Total 2018 EY Contract and SOJ expenditure:	371,674.00

2.6 DEPUTY K.F. MOREL OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX STATUS OF NON-RESIDENT CARERS WHO WORK IN JERSEY TO PROVIDE ‘LIVE IN’ CARE: [WR.8/2019]

Question

Will the Minister advise whether non-resident self-employed and employed carers who work in the Island to provide ‘live-in care’ are required to pay Income Tax and / or Social Security in Jersey; and, if so, will the Minister provide details of the legal structure under which they are required to do so and, if not, will the Minister explain why that is not the case?

Answer

The Deputy’s question focuses specifically on carers who work in the Island. It should be noted however that the tax rules that apply to determine the tax residency and exposure to Jersey tax of carers are no different to the rules that apply to all individuals. There are no special dispensations for carers within Jersey tax law.

In the case of a non-resident carer that is paid directly by a Jersey resident individual, company, care home or agency, that individual will be liable to Jersey tax on the income/profits earned (irrespective of whether they are employed or self-employed) as their income arises in the Island and is in respect of duties performed here.

If, however, the non-resident individual is employed by a non-Jersey agency to provide short term care in the Island, and it is the non-Jersey agency that is paid for the services of that individual then it is possible that the individual will not be liable to Jersey tax on the income earned. The liability or otherwise will be determined on whether or not there is a Double Tax Arrangement (DTA) in place with the jurisdiction in which they are resident, and the specific terms of that DTA. For example, if the individual is a resident of the UK for tax purposes, is in Jersey for less than 183 days in the tax year, and will pay tax in the UK on the income earned in Jersey, then it is likely, in accordance with the Jersey/United Kingdom DTA that they will not be liable to Jersey tax on that income. Furthermore, the UK Agency will not pay tax on the profits arising to them from the Jersey services unless they are trading through a Jersey permanent establishment.

In regard to social security contributions, there are three potential scenarios:-

1. Detached worker: where an individual is employed by a UK company and paying National Insurance in the UK (evidenced by way of payslips) the individual will not enter the Jersey social security scheme.
2. Worker contracted by a Jersey employer (company or individual): the individual will be registered with social security as Class 1 (employed) – with effect from the first day of employment. As such, social security contributions will be deducted from their wages.
3. Self-employed: the individual is registered as Class 2 and will benefit from a six month grace period after which they will be required to pay social security contributions.

2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE ANNOUNCEMENT THAT 126 MEMBERS OF THE HEALTH AND COMMUNITY SERVICES DEPARTMENT HAD SEEN THEIR GRADES AND PAY WRONGLY INCREASED: [WR.9/2019]

Question

Further to the announcement that 126 members of the Health and Community Services Department had seen their grades and pay wrongly increased, will the Chairman –

- (a) provide a detailed chronology of how these grade and pay increases came to be made;
- (b) set out the procedures and processes that should have been followed in these circumstances;
- (c) state the titles of who was responsible for the increases being made outside of recognised procedures;
- (d) advise what action, if any, has been taken against those responsible, when, and by whom any such action was taken;

- (e) state whether any consideration was given to dismissing those responsible for gross misconduct or incompetence and, if so, why such action was not pursued;
- (f) state which civil servants were informed of the actions of the Department, when, what action they took and when;
- (g) state which Ministers and Assistant Ministers were informed of the actions of the Department, when, what action they took and when; and
- (h) state when the States Employment Board was informed of the actions of the Department?

Answer

At the request of unions, the Health and Community Services Department commissioned an independent HR consultant to investigate how this matter. The report has been published, and the relevant details are covered in the report.

<https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/20181210%20Root%20Cause%20Analysis%20Health%20and%20Community%20Services.pdf>

- a) The Report outlines the relevant dates.
- b) The appropriate Business as usual (BAU) Job Evaluation procedures were followed i.e. the relevant department raised a request to have a range of jobs evaluated. The HSSD job evaluations were undertaken externally by Hay (the agreed job evaluation mechanism for Civil Servants). The error occurred as a result of the then leadership team asking for evaluations and submitting job information which was subsequently found to be not representative of the jobs being undertaken.
- c) The request was made by the HSSD leadership team in line with the BAU process.
- d) The leadership team which made the evaluation request no longer work in Health and Community services.
- e) The report has identified the factual basis behind the decisions. As that leadership team is no longer in situ, no action can be pursued.
- f) As the requests were dealt with under BAU process, the concerns did not become fully apparent until after the WFM pay offer had been rejected by Trade unions in February 2018 and the offer taken off the table in March 2018. Trade Union representatives made HSSD and HR managers aware during February /March of their members concerns.
- g) The previous Health Minister and Chair of SEB was aware of the concerns in February /March and asked officers to investigate the background of the complaints and concerns.
- h) The current SEB was made aware of the concerns when they took office, by which time the Root Cause Analysis report had been commissioned.

2.8 DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE LODGING OF A PROPOSITION TO REQUIRE MINISTERS TO ASSESS THE IMPACT ON CHILDREN’S RIGHTS OF EVERY LAW AND REGULATION: [WR.10/2019]

Question

Further to the statement made by the then Chief Minister on 9th April 2018, what progress, if any, has been made in planning for full incorporation of the United Nations Convention on the Rights of the Child into Jersey law; and when does the Chief Minister expect to lodge the “*proposition requiring Ministers to assess the impact on children’s rights of every law and regulation*”, referred

to by the previous Chief Minister and arising from the Assembly's adoption of 'United Nations Convention on the Rights of the Child: Compliance of Draft Laws and Training of States of Jersey Employees' (P.63/2017)?

Answer

On 19 September 2018 the Council of Ministers considered a proposal, jointly developed by Children's Policy Officers and the Children's Commissioner's Office, to directly incorporate the United Nations Convention on the Rights of the Child into domestic legislation. After careful consideration of the proposal, Ministers decided to progress with indirect incorporation in the first instance; their preferred position was to follow an incremental path towards full incorporation.

On 2 October 2018, the Minister for Children and Housing issued a Ministerial Decision¹ for law drafting instructions to commence in order to incorporate the convention by introducing, among other things, a statutory duty on the States of Jersey to have due regard to the UNCRC in legislation and policy. This duty will be supported by the introduction of a Children's Rights Impact Assessment. This new legislation will be brought forward during 2019 as part of the programme of work to ensure children's rights are protected and promoted in line with the priority to "put children first" as identified in the Common Strategic Policy and the States Pledge to Jersey's Children and Young People.

In parallel with the development of 'due regard' legislation, Ministers have requested that an assessment should be undertaken to further scope the benefits and risks associated with direct incorporation of the UNCRC into domestic legislation. This assessment will inform a subsequent report to Council which will be brought forward during the term of the current Assembly.

2.9 DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING THE PROVISION OF A COPY OF THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD TO EVERY STATES OF JERSEY EMPLOYEE: [WR.11/2019]

Question

In view of the Assembly's adoption of 'United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees' (P.63/2017) on 26th September 2017, on what date was every States of Jersey employee provided with a copy of the U.N. Convention on the Rights of the Child (UNCRC) and what provision, if any, has been made to train staff on the provisions of the UNCRC?

Answer

The Council of Ministers agreed to progress indirect incorporation of the United Nations Convention on the Rights of the Child into domestic legislation, on 19 September 2018. This legislation will be brought forward during 2019.

As part of the programme of work to coordinate the implementation of this new legislation, all States of Jersey employees will be provided with a copy of the UNCRC as part of a package of training

¹ ([MD-H-2018-0020](#))

measures addressing the provisions and implications of the convention. Confirmation of the resources required to deliver this training and guidance package is currently being progressed. The workforce will benefit from this training package from late 2019 onwards, in preparation for the enactment of this legislation which is expected to take place in spring 2020.

2.10 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE APPOINTMENT OF FIREFIGHTERS: [WR.12/2019]

Question

Will the Minister advise –

- (a) how many retained firefighters have applied for full-time firefighter roles over the last 5 years and, if any, how many of the applicants were successful; and
- (b) how many firefighters were appointed from outside the Island, and how many new entrants were resident in Jersey prior to their appointment, over the last five years?

Answer

- (a) Based on recruitment information held, 18 retained firefighters have applied for full-time firefighter roles over the last 5 years. 7 have been appointed.
- (b) No full-time firefighters have been appointed from outside the Island over the last five years.

2.11 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE DEVELOPMENT OF PYROTECHNIC ARTICLES REGULATIONS: [WR.13/2019]

Question

Further to the Minister's response to an e-petition calling for fireworks to be sold or supplied only for licensed displays, will he explain what consideration, if any, has been given to the following policy positions in the development of Pyrotechnic Articles Regulations?

- (a) Allowing the sale of 'Quiet fireworks' only;
- (b) Limiting the size of fireworks available for sale to the general public to a maximum of Category 2;
- (c) Allowing only professional fireworks displays to be permitted and policed; and
- (d) Allowing only fixed dates on which fireworks displays can be carried out.

Answer

The amendment to the Explosives (Jersey) Law 2014, which would allow for Pyrotechnic Articles Regulations to be proposed in due course, will be lodged again imminently (having previously been lodged as [P.38/2018](#)).

As part of the policy development process, an early draft of some possible Pyrotechnic Articles Regulations has been produced. This draft has formed the basis of initial discussions with, for example, the Comité des Connétables. In addition, and as part of developing and agreeing a response to the e-petition, I was briefed on some considerations that were put forward by the States Veterinary Officer and the Director of Environmental Health. The development of the proposed Pyrotechnic Articles Regulations is ongoing. Discussions on all relevant policy matters will continue in the coming months and be extended to include other relevant and interested public bodies, businesses and individuals (including the Education and Home Affairs Scrutiny Panel).

With regard to consideration given to date on the specific policy positions mentioned:

- (a) Discussions have focused on identifying an overarching policy position that both responds to concerns raised about noise and disturbance created through the use of fireworks and also enables people to celebrate events and occasions in the manner that they would wish. The use and sale of 'quiet' fireworks has therefore been considered, and a compromise position is being sought.
- (b) Consideration has been given to categories of fireworks and their availability to both the public and professional display organisers. A final decision on any restrictions to be proposed in the draft Regulations will be made following further research.
- (c) Consideration has been given to requiring all public displays to be licenced by the Connétable of the Parish in which the display is to take place. The organisers of a public display would be required to provide the Connétable with specified information, including the categories of fireworks to be used and a written risk assessment and environmental impact statement, before a licence can be granted. It is anticipated that the Connétable would liaise with the full Comité des Connétables as part of the licensing process, in order to ensure neighbouring Parishes are informed.

In the first instance, there is a need to clearly define the distinction between a public and private display. Advice in this regard is being sought at present.

- (d) Consideration has been given to preventing fireworks from being used at certain times of the day (current thinking in this regard is between 11pm and 7am). Exemptions would be made for certain occasions including Bonfire Night and New Year's Eve. As part of general policy discussions, the possibility of preventing fireworks from being used during certain periods of the year has also been mentioned.

2.12 DEPUTY S.M. AHIER OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF HOSPITAL CONSULTANTS WHO HAVE LEFT JERSEY TO TAKE UP ANOTHER POSITION IN THE LAST 10 YEARS: [WR.14/2019]

Question

Will the Minister advise the Assembly how many hospital consultants, if any, have left Jersey to take up another position in the last 10 years?

Answer

When an individual leaves States of Jersey employment, we do not always know if they are doing so to take up a new position; this is as true of hospital consultants as of any other group of employees. That said, we are aware of 4 hospital consultants who have left Jersey to take up another position in the last 10 years.

2.13 DEPUTY R.J. WARD OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING A REVIEW OF TEACHERS' TERMS AND CONDITIONS OF EMPLOYMENT: [WR.15/2019]

Question

Can the Chairman update the Assembly on plans for reviewing teachers' terms and conditions of employment and advise –

- (a) whether the Chief Executive is directly involved in the review;
- (b) whether the March 2019 deadline for completion of the process is adequate for full engagement of all stakeholders and union representatives;
- (c) how the roles of teachers will be evaluated;
- (d) the education model the evaluation will be based upon (exam outcomes, for example);
- (e) whether there will be job losses following the evaluation and, if so, at what tier(s); and
- (f) what savings are planned from the revaluation of these roles?

Answer

- (a) The Pay and Reward Review has been commissioned by the States Employment Board who have oversight of, and responsibility for this work. The Chief Executive Officer will be kept fully informed of progress;
- (b) March 2019 is the date by which SEB have asked for priority issues to have been identified. These will then be negotiated with the relevant union(s) over the summer, with changes being implemented on 1 January 2020;
- (c) Teachers' roles will be evaluated using two evaluation systems which will provide a consistency check. The two systems to be used are HAY and Agenda for Change, both well-established and reputable schemes;
- (d) The education model will be the latest agreed professional teaching standards
- (e) There will be no job losses as a result of job evaluation. The number of roles across Education will be considered as part of the wider work on organisational structures, to ensure that resources are sufficient to provide education for children and young people;
- (f) There is no financial savings target associated with the review of organisational structures or the evaluation of roles.

2.14 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING EXPENDITURE ON BREXIT PREPARATIONS: [WQ.16/2019]

Question

Further to the answer to WQ.279/2018 tabled on 3rd December 2018, can the Minister confirm that the estimated underspend relating to Brexit preparation provision was accurate, and further confirm the exact level of underspend for 2018 now that the end of year has been reached?

Answer

The underspend stated in the previous answer was for 2017 and was accurate.

The Deputy asks for confirmation of the exact level of underspend for 2018 now that the end of the year has been reached. In accordance with the response provided to WQ.279/2018, the final outturn position for 2018 will be confirmed as part of the States of Jersey Annual Report and Accounts 2018 which are due to be published in early April 2019.

Whilst the financial year is over, as with any organisation, the process of preparing, auditing and publishing the corresponding financial outturn takes a period of time. Work is well underway to deliver the results faster than in previous years and with appropriate analysis to help interpret them.

2.15 DEPUTY R.J. WARD OF ST. HELIER OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING COMPARISONS BETWEEN PRIVATE SECTOR AND PUBLIC SECTOR PAY AWARDS: [WQ.17/2019]

Question

Further to statements made by the Vice Chairman of the States Employment Board in the media that civil service pay is higher than private sector equivalents, can the Chairman provide details of the process being used to make direct comparisons between work roles and pay awards between civil service posts and the private sector?

Answer

As part of the preparation for pay negotiations we review local market pay rates using a variety of sources such as local salary surveys, discussions with employers and our own analysis.

The Trade Unions have been provided with the information, in the past, which shows that public sector salaries up to the equivalent Grade11/12, which covers c 85 % of the workforce are either the same or in excess of the private sector.

Above that level, our salaries are below the private sector especially in roles such as finance where the impact of the local finance sector may distort the local employment market at senior levels.

2.16 DEPUTY R.J. WARD OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF ZERO-HOURS AND SHORT-TERM CONTRACTS IN HER DEPARTMENT: [WQ.18/2019]

Question

As the remodelling of the delivery of services in Social Security continues, how many zero hours and short term contracts will be held by the Social Security Department in order to staff the provision of services in 2019?

Can the Minister advise how zero hours and short term contracts enable the service to be developed in the long term and outline what measures are being taken in this regard?

Answer

Under the new One Government structure, Social Security teams have moved to new departments. The benefit and customer service teams are now part of Customer and Local Services. Work around the future target operating model and organisational structure for Customer and Local Services (and the other new departments) is underway but not yet finalised and therefore it is not possible to state the number of short term contracts that would be required in 2019.

At the moment, Customer and Local Services department uses different employment frameworks to ensure effective headcount management and protect permanent employees in a period of change. There is also likely to be an ongoing need to have flexibility to act quickly to set up new projects and initiatives, provide support to customers following changes in legislation, pilot new ideas where permanent funding has not been established and cover short-term fluctuations in workloads – short term contracts and agency workers enable this to happen appropriately.

2.17 DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE TREATMENT AT THE GENERAL HOSPITAL OF PEOPLE WITH MENTAL HEALTH PROBLEMS: [WQ.19/2019]

Question

How many people were treated for mental health conditions at the General Hospital in the last six months of 2018?

Can the Minister provide a breakdown of the time spent in hospital by patients with mental health conditions and advise where the patients were referred to on discharge?

Answer

There were 508 attendances at the Emergency Department between July and December 2018 by patients with a diagnosis category recorded as one of Psychiatric (432), Attempted Suicide (22) or Deliberate Self-Harm (54). (Please note these figures include a number of repeat attendances – there were 311 unique patients.)

Of the 508 attendances:

- 42% were discharged home
- 23% were referred to the Psychiatric Liaison team
- 7% were admitted to JGH acute ward as an inpatient
- 5% were admitted to JGH Robin ward
- 6% were admitted to Orchard House
- 2% were admitted to another hospital ward (e.g. Clinique Pinel or the health centre HMP La Moye)
- 6% were referred to other clinicians (e.g. GP, Allied Health Professionals) for follow-up
- 9% did not wait or self-discharged or were removed by the police.

Patients with mental health conditions who require treatment are admitted to Orchard House (adults) or Beech and Cedar Wards (older adults) rather than admitted as inpatients to the Jersey General Hospital. The exception is children in need of mental health care who may be admitted to Robin ward at the General Hospital.

The following table summarises the average length of stay on each of these wards and the number of discharges from July to December 2018.

Ward	Number of discharges	Average (mean) length of stay (days)	Median length of stay (days)
Robin Ward	20	7.2	2.5
Orchard House	102	28.3	12.5
Beech Ward	14	79.9	66.5
Cedar Ward	25	79	41

(Please note that the figures include a number of repeat discharges – there were 132 unique patients.)

The destination on discharge was as follows:

- Home/Usual place of residence: 113 patients
- Nursing/Residential Care: 10 patients
- Other wards within HSS (including public and private care): 16 patients
- Other (including temporary residence, off-island placements and deceased): 22 patients

2.18 DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE CONFINEMENT OF CHILDREN IN CARE IN SAFE PLACES OR HOLDING CELLS: [WQ.20/2019]

Question

What proportion of children in care were confined to either a safe place or holding cell for more than 18 hours a day in each of the past four years?

Answer

The States of Jersey Police has confirmed that, from the period 1st January 2014 to 31st December 2018, there are 32 custody records, relating to 25 individuals, where a person under the age of 18 was in custody for a period of more than 18 hours. Five individuals were held in custody on more than one occasion for a period that was more than 18 hours.

The number of individual children who were looked after when the custody period exceeded 18 hours was 6. This, in turn, relates to 10 custody records.

2.19 DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR CHILDREN AND HOUSING REGARDING THE WAITING LIST FOR ISLANDERS SEEKING ACCOMMODATION VIA THE AFFORDABLE HOUSING GATEWAY: [WQ.21/2019]

Question

Can the Minister provide details of the latest waiting lists for Islanders who are seeking accommodation via the affordable housing gateway with a breakdown of time spent waiting and family demographics?

Answer

As at 11th January 2019, the total number of applications registered on the Affordable Housing Gateway waiting list was 2081. This figure consists of 838 applications for social rented accommodation and 1243 applications for assistance to purchase a home.

A breakdown of the total number of applications for social rented accommodation by bedroom requirement and band prioritisation is as set out below.

Property type	Private sector application	Social housing transfer	Total
Studio	37	9	46
One-bedroom	200	167	367
Two-bedroom	155	96	247
Three-bedroom	55	71	126
Four-bedroom	11	33	44
Five-bedroom	1	3	4
		Total	838

Total number of applications for social rented accommodation by bedroom requirement

Band	Number
Band 1 – Highest Priority e.g. homeless, under eviction notice, urgent medical issues, social housing transfer due to under-occupation.	237
Band 2 – Overcrowded conditions, poor housing standards, moderate medical issue.	295
Band 3 – Current accommodation is unaffordable on account of applicant's personal circumstances.	270
Band 4 – Applicants who wish to move but are able to re-house themselves in the private sector without financial assistance.	5
Band 6 – Agency referrals through the Supported Housing Group – applicants will have a package of care and support in order to live independently	31
Total	838

Total number of applications for social rented accommodation by band prioritisation

The total number of applications for assistance to purchase a home by bedroom requirement is as follows:

Bedroom requirement	Number of applications
One-bedroom	161
Two-bedroom	443
Three-bedroom	610
Four-bedroom	28
Five-bedroom	1
Total	1243

Total number of applications for assisted purchase by bedroom requirement

The following table provides a breakdown of current applications by household composition, including social rented accommodation (Bands 1-4, 6) and assistance to purchase (Band 5):

Band	Couples - no children*	Couples - adult children only**	Couples with children	Single adults	Single parents	Total
Band 1	47	12	22	121	35	237
Band 2	26	4	100	86	79	295
Band 3	46	4	58	111	51	270
Band 4	1	n/a	n/a	4	n/a	5
Band 5	263	27	586	288	79	1243
Band 6	4	1	n/a	25	1	31
Total	387	48	766	635	245	2081

Applications by household composition and band

**Refers to households including a children under the age of 18 years*

***Refers to households including an adult child aged 18 years and over*

The following table shows the average waiting time in months for applications made since the 1st of January 2017 to date. This only includes applications made by individuals who were eligible for affordable housing and were placed on the waiting list. The table has been broken down by band and by the current status of the application.

Band 1	7	3	3	4
Band 2	10	5	7	9
Band 3	12	7		12
Band 4	18			18
Band 5	13	8		13
Band 6	7	4		6
Overall Average	11	3	6	9

Average waiting time by band

**Active: refers to applications that are currently on the waiting list and the average time elapsed since their application date*

*** Housed: refers to applications that were on the waiting list and have been allocated a home and the average amount of time they waited.*

****On Offer: refers to applicants who have been offered a property to move into and are waiting to move in.*

Up-to-date information on the number of applications registered with the Affordable Housing Gateway is published each month and is available at:

www.gov.je/Home/RentingBuying/ApplicationAllocation/Pages/HowToApply.aspx

2.20 DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE ORGANISATIONS WHICH REGISTERED AS A CHARITY BY THE END OF 2018: [WQ.22/2019]

Question

Can the Chief Minister provide a list of all registered charities and a breakdown of organisations and bodies that started the process of registering as a charity by the end of 2018?

Answer

The Jersey Charity Commissioner reports that by the end of 2018, 36 charities were registered.

Details relating to these 36 charities are available via the Commissioner's website at <https://portal.charitycommissioner.je/Public-Register/>

The Commissioner also reports that he has received a further 398 applications for registration by the end of 2018. The Commissioner does not, however, publish details about applicants prior to registration.

2.21 DEPUTY K.G. PAMPLIN OF ST. SAVIOUR OF THE MINISTER FOR THE ENVIRONMENT REGARDING INCIDENTS OF FLY-TIPPING: [WQ.23/2019]

Question

Can the Minister provide a breakdown of the number of incidents of fly tipping reported to the department during 2018, including the location of the items, the types of items and the cost of disposing of them?

Answer

In 2018, the Environmental Protection team, within Growth, Housing and Environment (GHE) received a total of 172 reports of fly tipping on the Island. These figures only represent reports made directly to Environmental Protection.

The total figure excludes the fly tipped waste collected by the Parish of St Helier from within the Parish and that collected by GHE Cleaning Services at all the island's recycling and bring bank sites. These additional figures are currently being compiled and will be reported at the end of Q1 2019.

Summary of fly tipping reports:

Figures below are for the total of 159 incidents reported to Environmental Protection in Q1-Q3 (detailed information on the location and type of fly tipping incident for Q4 2018 are currently being processed)

1. Overview of types of fly-tipped waste

- The majority of reports (50 reports or 31% of the total Q1-Q3 reports) were of household bulky items being fly-tipped (e.g. furniture, mattresses etc)
- 28 reports (18% of the total) were classified as 'other unidentified' (e.g. push bikes).
- 18 reports (11% of the total) were vehicle parts
- The remaining reports were a mixture of chemical/fuel/oil, commercial, construction/demolition waste, green waste, household black bags, and white goods.

2. Location by land ownership

- 99 reports were recorded on Parish land, 23 on States of Jersey land, 10 on private land, 9 on unclassified land, 7 on commercial/industrial land, 4 on agricultural land, 4 on roads, 2 reports on a footpath or bridleway and 1 report on a stream bank.

3. Location by Parish

- St Helier (35 reports or 22% of the total Q1 to Q3 reports)
 - Slightly less than one-third of these reports occurred around the ring road.
 - Three incidents were reported in the La Collette area.
 - The majority involved the fly tipping of bulky waste items such as mattresses or furniture.
- St Brelade (32 reports or 20% of the total)

- A concentration of reports were around Noirmont and Pont Marquet
- Included were five reports of fly tipped car parts.
- Trinity (16 reports or 10% of the total)
 - Concentrated along the lanes of the north coast
- St Martin (6 reports or 4% of the total)
 - Four reports in the St Catherine area
- St John (5 reports or 3% of the total)
 - Located around the lanes along the north coast
- Other Parishes
 - Grouville, St Clement, St Lawrence, St Ouen, St. Peter and St. Saviour
 - Between 7 and 15 reports per Parish
 - St Mary (0 reports)

4. Estimated cost of clearing up, investigating and disposing of fly-tipped waste in 2018

- Environmental Protection officer time
 - Officer costs for investigating fly tipping incidents £41k
- Other officer time
 - An estimated total of £10-20k p.a. incurred by GHE Recycling Team for collecting fly tipped waste at the island's recycling and bring bank sites
 - Cost to the Parish of St Helier (estimated manpower cost £30,000 pa)
- Other costs;
 - GHE officers collect and dispose of fly tipped waste as part of their daily work around the island
 - Private land owners and farmers incur costs to clear and dispose of fly tipping on their land
 - Charities incur costs due to collection and disposal of fly tipped waste from charity bring bank sites
 - Other parties such as the National Trust, Jersey Water incur clean-up/disposal costs

5. Enforcement action taken

The anti-fly tipping project is a partnership approach between Environmental Protection, GHE Recycling Team, the Parishes and other affected stakeholders.

All parties examine fly tipped waste for evidence. Instances where some evidence might exist are investigated by Environmental Protection. In 2018 this was 71 of the fly tipping reports. Instances are then fully investigated, and where identified, suspects are interviewed. Officers are keen to secure court appearances where possible and case files are prepared and forwarded to the Law Officers Department where appropriate.

In 2018, three case files were submitted to the Law Officers Department. In one case the offender was fined £275 at the Parish Hall and in the other cases written cautions were issued. In 14 other cases offenders were dealt with in line with Environmental Protection's enforcement policy, such as warning letters. A total of 23 cases are still active. In the remaining 31 cases, no suspect

was identified. The difficulty with fly-tipping events is collecting the required evidence to secure a prosecution.

2.22 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING EXPENDITURE ON RENTING PREMISES FOR USE BY STATES DEPARTMENTS: [WQ.24/2019]

Question

Will the Minister state how much was spent annually during the last 5 years on renting premises from which departments have worked?

Answer

The requested information is as follows: 2014 - £912,000; 2015 - £944,000; 2016 - £953,000; 2017 - £723,000 and 2018 - £2,192,000. These figures have been rounded to the nearest £1,000.

I should mention that Morier House and Maritime House were built via private funding arranged through “lease, lease-back” contracts. In effect, the completed buildings have been leased back from the lenders for 21 years. However, the annual rentals have not been included in the figures previously mentioned as they amount to funding arrangements rather than commercial leases.

2.23 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE USE OF CRIMINALITY CHECKS IN DETERMINING APPLICATIONS FOR SETTLED STATUS: [WQ.25/2019]

Question

Further to the statement in information recently published on www.gov.je regarding applications for settled status, that an applicant family of E.U. nationals who “have been living in Jersey for over 5 years [...] qualify for settled status, subject to criminality checks”, will the Minister advise –

- (a) what causes someone, who has been a resident for over 5 years, to fail such a criminality check; and
- (b) what happens if someone does not pass such a criminality check?

Answer

- (a) Only serious or persistent criminality will impact on an application. This will normally mean an applicant will have reached the usual threshold to be considered for deportation, that being having served a prison sentence of 12 months or more in the last 5 years.
- (b) If an applicant passes the threshold to be considered for deportation, the Minister for Home Affairs will make a decision on that person’s deportation. Consideration for deportation is made by the Minister following full consideration of a person’s circumstances, and also their human rights.

It should be noted that offences committed within Jersey will normally have already been considered.

2.24 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR CHILDREN AND HOUSING REGARDING THE RE-ESTABLISHMENT OF THE RENT TRIBUNAL: [WQ.26/2019]

Question

Does the Minister have any plan, or intention, to re-establish a rent tribunal to allow tenants (in all sectors) to challenge rent increases and, if so, will he provide details of any such plan or intentions?

Answer

I am giving active consideration to the re-establishment of a Rent Control Tribunal.

The Council of Ministers' Statement of Common Strategic Policy 2018–2022 includes a priority to "*reduce income inequality and improve the standard of living*". In order to support the delivery of this priority, the Council of Ministers will introduce measures to improve the quality and affordability of housing, including measures to strengthen the rights of tenants.

The re-establishment of a Rent Control Tribunal is one such way by which we can strengthen the rights and protections afforded to tenants. A tribunal would enable tenants to challenge rent increases where they felt that any rent increase was unreasonable and inconsistent with equivalent rents in the market.

Before I bring forward proposals for the re-establishment of a Rent Control Tribunal, I have asked officers to review the Dwelling Houses (**Rent Control**) (**Jersey**) Law 1946, which would give legislative effect to a tribunal. This is not a modern piece of legislation and it may, as a result, require amendment to make sure that it is fit for purpose and reflects modern practice in the rented sector.

Moreover, the Law prescribes a standard form of written contract (a standard lease), which I believe should also be revised in order to provide a more consumer-orientated framework for the legal relationship between landlords and tenants.

I am also considering making revisions to the tenancy deposit protection arrangements under the Residential Tenancy (Jersey) Law 2011 such as potential improvements to the way that tenants may seek redress against landlords who do not protect deposit money, and an extension of the legislation to other rental arrangements such as non-self-contained rented accommodation.

I will report to the Assembly by mid-March 2019 with findings and proposed next steps.

2.25 DEPUTY C.S. ALVES OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF RECIPROCAL HEALTH AGREEMENTS: [WQ.27.2019]

Question

Will the Minister state, for each of the last 5 years, on how many occasions individuals have used the reciprocal health agreements that her department has in place with different countries (not including the U.K.)?

Answer

Reciprocal health agreements generally entitle visitors from a participating country to access care on the same basis as people locally resident. The agreements usually allow for treatment to be given in response to an emergency only. Each country may apply their own process for verifying entitlements and may or may not keep records of cases where fees have been waived because a reciprocal agreement has been applied.

As such, there is no claims process and no transactions between countries which allow a record of frequencies to be created.

Likewise, there is no requirement for reciprocal countries to report the use of a reciprocal agreement and therefore no records are available in respect of other countries.

Residents are encouraged to ensure they have the relevant travel insurance in place when travelling abroad.

2.26 SENATOR S.Y. MÉZEC OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING STATES MEMBERS' DECLARATIONS OF INTEREST: [WQ.28/2019]

Question

Will the Chairman state what consideration, if any, has been given by his Committee to ensuring that States members' declarations of interests are made as transparent as possible, including requiring any members who own a holding company to reveal what is contained within that holding company?

Answer

My predecessor answered a similar question on 14th February 2017. His answer set out the rules relating to the registration of shareholdings, which have not changed, and said "it is the responsibility of all members to register interests accurately and in a timely fashion and to declare those interests where necessary under Standing Order 106. Complaints that interests have not been appropriately registered or declared can be made to PPC. The Committee has not recently dealt with any such complaints." This statement still stands.

I understand that PPC did review the rules relating to shareholdings in holding companies. Information was gathered about those rules in other jurisdictions, which is set out in this table:

Jurisdiction	Which shareholdings must be registered?	Is information required about the nature of a holding company?
UK, House of Commons	(i) Greater than 15% of issued share capital (on preceding 5 April), or (ii) If 15% or less of issued share capital (on preceding 5 April), greater in value than £70,000	No
Scotland	(i) nominal value of the shares at the relevant date is or was greater than 1% of the total nominal value of the issued share capital of the company or other body, or (ii) where the market value of the shares at the relevant date exceeds 50% of a member's salary at the start of the current parliamentary session (rounded down to the nearest £10 – currently £30,340)	Yes - "when registering shares, members are required to provide details of the type of shares, the name of the company in which the shares are held, the company's business address and the nature of its business".
Wales	Market value greater than one per cent of the issued share capital (on preceding 5 April)	Yes - " For each shareholding, the entry should state the name of the company or body, briefly indicate the nature of its business and make clear which of the criteria for registration is applicable"
Northern Ireland	Same as Scotland (except the current salary of an Assembly Member is £24,500)	No
Republic of Ireland	(i) Nature of holding (i.e. shares, bonds, debenture or other similar holding) (ii) Name and registered address of company or enterprise or undertaking etc. (iii) Nature of business	No - "holding company" is a sufficient description of the "nature of business" judging from entries in Ireland's Register of Interests.
Isle of Man	shares or stock held in any company whose shares or stock are publicly quoted on a stock exchange in the	No

	United Kingdom or Ireland (and shares or stock held in any other company where any asset to which such a company may be entitled is or represents a right, interest or circumstance which is itself a relevant interest)	
Guernsey	Any shareholdings	Yes, if shareholding is over 10% of issued stock, "brief description of their business/work" plus property ownership in the Bailiwick
Canada, House of Commons	No register of interests	
Australia, House of Representatives	"Shareholdings in public and private companies (including holding companies) indicating the name of the company or companies"	No
New Zealand	(a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies, and (b) the name of every other company or business entity in which the member has a pecuniary interest, other than an interest as a unit holder in a unit trust, and a description of the main business activities of each of those companies or entities, and	The "main business activities" of companies are required to be disclosed but, in practice, some members give no further information than "holding company" in their register entries.

It was noted that Jersey's rules are not out of step with other jurisdictions and no specific concerns had been raised with PPC about the current arrangements. Since then, no complaint has been made to the Commissioner for Standards in relation to Members' shareholdings.

The Committee concluded that, for members who held in excess of 10 per cent of issued stock of a holding company, a brief description of the work undertaken by the underlying businesses 'held' by that company should be declared in the register of interests. However, some complexities were encountered in drafting this amendment to Standing Orders and the matter was not resolved before

the election and has not been picked up by the new PPC. The issue will be discussed at the next meeting of the Committee.

2.27 SENATOR S.Y. MÉZEC OF H.M. ATTORNEY GENERAL REGARDING THE BAILIFF'S ROLE AS 'GUARDIAN OF THE CONSTITUTION': [WQ.30/2019]

Question

Will H.M. Attorney General provide an explanation as to what the role of 'Guardian of the Constitution' means in a Jersey context, including what practical powers and responsibilities the Bailiff of Jersey is required to exercise in accordance with this role?

Answer

- 1 This question goes to the root of Jersey's constitution, its links as a bailiwick to the Crown, and its relationship and dealings with the government of the United Kingdom.
- 2 The constitution of Jersey is unwritten. Its workings are dependent on the people involved in its operation, both in Jersey and in the United Kingdom, and the understanding of and familiarity they have with the relationship between the two jurisdictions. Whereas the constitution of a sovereign-state is not defined by its relationship with a neighbouring state, the constitutional status of Jersey is by contrast dependent on its continuing relationship with the Sovereign. The Review of the Role of the Crown Officers chaired by Lord Carswell, presented to the States in December 2010², alluded to this when it observed that: "*The constitutional relationship between the United Kingdom and Jersey . . . is subtle and unwritten, enshrined in custom and practice developed over many years*". I would add the caveat that such custom and practice is always developing. The relationship is more than one of historical and political ties; it is founded on legal principles, and depends for the future on maintaining a firm understanding and application of such principles. It is against this broader background that the Bailiff's role has to be viewed.
- 3 Constitutional questions are inevitably considered in the judicial context by the courts who perform what is often described as the role of 'Guardian of the Constitution'. Jersey is no exception in that the Royal Court will exercise its normal jurisdiction to protect the fundamental rights of individuals against encroachment by the state, and indeed protect the constitutional rights of Islanders *vis-à-vis* United Kingdom authorities or courts.³ The Court in this judicial context watches over the constitutional rights and privileges of the Bailiwick. But the role of the Bailiff as Guardian of the Constitution goes well beyond his or her role as Chief Justice, as is clear from what follows.
- 4 This question also goes to the fundamental nature of the office of Bailiff. As I have said in previous answers to the Assembly, in Norman law the term "*Bailli*" actually meant '*Gardien*'.⁴

² R. 143/2010

³ Article 19 of the Royal Court (Jersey) Law 1948 specifically charges the Jurats to decide whether Orders in Council or Warrants *etc.* from the United Kingdom should be registered or whether the matter is one in which it would be proper to suspend registration. A casting vote is conferred on the Bailiff.

⁴ Pesnelle: *Ancienne Coûtume de Normandie*, first volume (4th edition) "de jurisdiction", first Article. "*Bailli signifie la même chose que Gardien; comme Baillie signifie Garde & Protection. . . . Le Bailli donc étoit comme le conservateur*"

The Bailiff's oath is entirely consistent with this notion: "*You swear and promise before God ... that you will uphold and maintain the laws and usages and the privileges and freedoms of this Island and that you will vigorously oppose whomsoever may seek to destroy them.*" The Report of the Privy Council on Proposed Reforms in the Channel Islands of March 1947⁵ noted that "... the Bailiff as President of the States exercises important functions in advising the Assembly on constitutional procedure which, from the nature of the constitution, requires an intimate knowledge of the privileges, rights and customs of the Island ...".⁶

5 How the Bailiff discharges his or her duty in practice will depend inevitably to some extent on how the incumbent views that duty. The duty will not change but the way in which it is discharged may vary. Furthermore it is not possible to be precise about the extent of the role, at least in part because the challenges facing the Island in the future cannot be predicted today. What follows are a handful of the many circumstances which have arisen in which the Bailiff's role as Guardian has been of significance:

(a) Thomas Le Breton (and John Hammond from 1858) occupied the office of Bailiff at the time of the *Victoria College* dispute which involved Orders in Council of 1853⁷ and 1858⁸ purporting to legislate over the head of the States of Jersey. The non-registration of the Orders, and the subsequent registration of a Jersey *Loi*,⁹ was an important milestone in underpinning Jersey's legislative autonomy. The Lieutenant-Governor of the day¹⁰ disassociated himself from any objection to the Orders, and it was left to the Bailiff together with the Jurats to petition Her Majesty in 1853 citing the *Patente de Impôt*, whilst a separate Representation of the States described the powers that would have been conferred on the Lieutenant-Governor by the Order in Council as "... an encroachment on the prerogatives of the Bailiff [as President of the States and Assembly of Governor, Bailiff and Jurats] ...". The Petition of the States against the 1858 Order in Council "... respectfully submitted that, upon the clearest principles of legislation and constitutional government, no amendments can ... be introduced to an Act passed by the representatives of the people [of Jersey] ... , until those amendments ... have been submitted and have been assented to by those representatives." On 2nd February 1859, the offending Order in Council was annulled by Her Majesty in Council.

(b) Sir George Bertram was Bailiff at the time of the *Prison Board Case* in 1891-4 in which the question before the Privy Council was whether the Crown had power to legislate for

du Peuple & des Loix." [Bailli means the same thing as guardian; as Baillie means Guard and Protection. ... The Bailiff thus was in the position of preserver (*conservateur*) of the People and of the Laws."]

⁵ (Cmd. 7074)

⁶ Albeit speaking of the Bailiff of Guernsey, the Report concluded (at page 17) that "... in the event of differences between the Crown and the States it would be the historical duty of the Bailiff to represent the views of the people of the Island. In the course of ... discussions arising from communications [through the official channel], it is the duty of the Bailiff to represent the views of the Island in constitutional matters. The opinion was expressed that if the Bailiff were not President of the States, this duty would tend to fall on the Law Officers of the Crown, who would be less able to discharge it than the Bailiff. ... " "It was suggested that the Bailiff should be excluded from the States ... " ... "We do not think that ... any person other than the Bailiff could perform those duties of a constitutional nature which attach to the President of the States."

⁷ Order in Council of 4th January 1853 Making Regulations for Victoria College

⁸ Order in Council of 31st July 1858 purporting to amend a draft Law adopted by the States

⁹ *Loi* (1860) *au sujet du Collège Victoria*

¹⁰ Major General Love

the Island without the advice and consent of the States. The role of the Bailiff (and the Attorney General of the day) was central, and the Crown eventually withdrew the offending Order in Council.

- (c) The severest test in recent times of the Bailiff's role as guardian of the constitution was during the German Occupation when Sir Alexander Coutanche was called upon to discharge the function of the Lieutenant-Governor. He also had great significance in his role (along with the other Crown Officers of the day) in the lead-up to the Report of the Privy Council on Proposed Reforms in the Channel Islands of March 1947. Importantly as well, this Bailiff was influential in ensuring that UK legislation did not apply directly to Jersey. A notable example of this was the Exchange Control Act 1947 the object of which was to conserve the exchange resources of the United Kingdom and other members of the sterling area (of which Jersey was a part). As a result of correspondence with the Secretary of State, a prior Law was passed by the States which enabled any order or instrument made by the Treasury for the purposes of the 1947 Act to have effect in the Bailiwick, without registration, from the day upon which such order or instrument was expressed to come into operation. In other words, whilst Jersey co-operated with the régime of exchange control laid down by the 1947 Act, the Law passed by the States ensured that this was achieved through provision made in the Island (enabling enforcement in Jersey of orders or instruments of the UK Treasury), and not by the direct application of an Act of the United Kingdom Parliament providing for the enforcement of such orders or instruments. Although this may appear to be a somewhat technical point, it is an important illustration of the Bailiff's role in watching over the legislative independence of the Bailiwick. It is not in any sense an example that is 'dated': it could easily have a present day equivalent.

Again, on a matter that may appear technical, but which is of no small constitutional relevance, it was with the advice of this Bailiff that section 16 of the Wireless Telegraphy Act 1949 (which dealt with the power of the Secretary of State to make orders or regulations) was modified to add subsection (3) so as to provide that any order or regulation made by the Secretary of State under the Act should not have effect in Jersey (or Guernsey) unless it had been transmitted to the Bailiff and communicated by him for registration to the Royal Court. The successors to the 1949 Act were the Communications Act 2003 and the Wireless Telegraphy Act 2006. The provisions concerning the requirement for registration by the Royal Court were re-iterated in these Acts to provide that—

“Any statutory instrument made by [the Secretary of State] [OFCOM] pursuant to this Act shall not have effect in Jersey until it is registered in the Royal Court of Jersey and where any such statutory instrument is so registered, it shall have effect on the day following the day of such registration or on the day specified in the instrument for its coming into force, whichever is the later.”

- (d) Sir Robert Le Masurier was Bailiff at the time of the Kilbrandon Report¹¹, commissioned in contemplation of the accession of the United Kingdom to the European Economic Community. In 1967 this Bailiff was in receipt *via* the official channel of a letter from

¹¹ Report of the Royal Commission on the Constitution, 1969–1973, entitled *Relationships between the United Kingdom and the Channel Islands and the Isle of Man*.

the UK Permanent Under-Secretary of State¹² concerning the announcement of the UK Government to re-apply for membership of the EEC. Under art 227(4) of the Treaty of Rome, Jersey would have been incorporated into the EEC. The letter read: “*The chances of securing . . . a modification [of art 227(4)] must be considered remote; but in any event it must be questionable whether such arrangements would be desirable because, if Jersey were excluded, the Island would have to face the Common External Tariff that would need to be erected against it by the United Kingdom and the other Community countries.*” The letter confirmed the Island’s worst fears, and a special committee was set up to respond, presided over by this Bailiff, and consisting of the Law Officers and Senator Ralph Vibert,¹³ along with constitutional and other experts.¹⁴ (Senator Vibert later assumed chairmanship. The end-result of the work of the Special Committee was ‘Protocol 3’.)

(e) In recent times the Bailiffs of the day made important contributions to the understanding and development of constitutional issues affecting the Island (*Clothier* during the tenure of Sir Philip Bailhache; *Carswell* during the tenure of Sir Michael Birt).

6 In their reactions to the events of their time, the approach of each Bailiff to his or her duty to *uphold and maintain . . . the privileges and freedoms of this Island* will vary – inevitably. But this is not to say that the duty of the Bailiff as *Gardien* is in any sense unclear. In whatever manner each Bailiff actually discharges the duty laid down in the oath, the requirement imposed by it is as pertinent today as it was when Thomas Le Breton in the 1850’s ‘vigorously opposed’ those who asserted the right of the Privy Council to legislate over the head of the States Assembly, or when Sir Robert Le Masurier in the 1960’s first presided over the Special Committee from which the idea for Protocol 3 would eventually spring. As I have stressed, the constitutional relationship is founded on legal principles, and depends for the future on maintaining a firm understanding and application of such principles (in both jurisdictions).

7 Against this background, the view recently expressed by Lord Carswell in his address to States Members¹⁵ on 11 November 2016 seems wholly apposite: “. . . *that the Bailiff should continue to be the guardian of the constitution and to be the conduit through which official correspondence passes . . . he has unique knowledge and experience of Jersey’s constitutional affairs and . . . he should continue to be in a position where he can bring his experience and judgment to bear on matters which may have a constitutional implication.*”

8 Recommendation 4 of Lord Carswell’s Report was indeed that: “*The Bailiff should continue to be the guardian of the constitution*”. Writing in support of this recommendation on 25 January 2011, Sir Michael Birt (then Bailiff) pointed out that: “*The constitutional relationship between Jersey and the United Kingdom is unwritten and to some extent uncertain. It is based upon custom and practice over many centuries. It is therefore essential from the point of view of preserving Jersey’s constitutional autonomy that day to day practice is consistent with that autonomy. A decision taken by Jersey for short term advantage in relation to a particular matter may create a precedent which weakens Jersey’s long term constitutional position. It is therefore of vital importance that the Chief Minister of the day is alerted to any possible*

¹² Sir Philip Allen (on 3rd May 1967)

¹³ See Vibert’s Memoirs pp. 135 *et seq.*

¹⁴ E.g. Professors Robert Jennings and Stanley de Smith, and Dr. High Thurston

¹⁵ See Appendix 1 to P. 84/2017, page 25

implications for the constitutional relationship when a particular matter arises. He cannot rely on his civil servants for this as nowadays they tend to be appointed from the United Kingdom and are therefore unfamiliar with the subtleties of the constitutional relationship; and in any event, as non-lawyers, they would not be in a position to advise on the complexities of the constitutional relationship. As the review makes clear . . . , the Bailiff is particularly well suited to provide advice on the constitutional relationship.”

- 9 What then in practical terms does this role empower or require the Bailiff to do?
- 10 The submission of Sir Michael Birt to Lord Carswell provides helpful background in understanding the workings of the channel for official correspondence with the Ministry of Justice. The Bailiff’s rôle is to keep a “*watchful eye on the correspondence*”. Occasionally the Bailiff may note a concern from the constitutional point of view, and “*may alert the Attorney General and/or the Chief Minister to the point. But his rôle is limited nonetheless to tendering advice. The decision as to how to respond is that of the Chief Minister or the relevant Minister. It may be argued that there is adequate protection for the constitutional relationship from the Attorney General. He is certainly the legal adviser to the Government and the primary responsibility is his. Nevertheless, an Attorney General may be relatively new to the task and not yet steeped in the constitutional relationship in the way that the Bailiff is. The Bailiff is an important additional protection to safeguarding the constitutional position of the Island.*” Bailiffs in the past – as I have noted above – have been vigilant to protect the legislative independence of the Island; and there is every reason, arguably more reason, in the 21st Century to maintain that vigilance.
- 11 As indicated above, the extent of the role cannot be defined with precision in part because the future is unknown, but in very broad terms, and against the background set out above, the independent Law Officers and the Bailiff each have roles with respect to the protection of the constitutional relationships both within Jersey and externally with the Crown and the Government of the United Kingdom. The Law Officers are responsible for advising the Government and Assembly members on the legal and constitutional issues arising from courses of action and propositions intended for debate in the Assembly. The Bailiff’s role might be described as including the following;
- (i) giving voice to constitutional concerns that might undermine the rights and privileges of the Island and Islanders. In this context the Bailiff’s role as presiding officer in the Assembly provides the Bailiff with the opportunity to review all propositions brought to the Assembly for debate from a long term constitutional perspective and to highlight any issues or potential concerns that may need to be addressed;
 - (ii) advising the Lieutenant Governor who in turn advises the Sovereign on constitutional matters (such advice being given direct when the Governor is absent or not in post);
 - (iii) defending the independence of the judiciary; and
 - (iv) a natural conduit for communications between the judiciary and the executive, so that each understands the legitimate objectives of the other.

2.28 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING THE ESTABLISHMENT OF THE NEW GROWTH, HOUSING AND ENVIRONMENT DEPARTMENT: [WQ.31/2019]

Question

Further to the publication of the [One Government organisation chart](#), can the Minister advise what safeguards are in place to avoid conflicts in the new Growth, Housing and Environment Department, which is able to make and determine its own planning applications, for example, and state what permanent changes, if any, are proposed to eliminate conflicts in future?

What measures are in place under the new structure to establish clear accountability for the Island Plan given that Article 3 of the Planning and Building Law 2002 confers a statutory duty for the Plan upon the Minister for the Environment, but the departmental structure places responsibility for the Plan on the Director of Future Island Strategy in the Strategic Policy Performance and Population Department?

In addition, what safeguards and procedures have been put in place under the new structure to ensure the independence of Statistics Jersey, given that the organisation chart indicates that Statistics Jersey reports into the Director General of Performance, Information and Statistics?

Answer

A decision-making protocol has been agreed within the Growth, Housing and Environment Department to ensure that the regulatory section of the Department can operate effectively and independently of the many areas of Government that it regulates. There will be no management conflict in respect of regulatory decisions when this protocol is followed.

Responsibility for the Island Plan continues to rest with the Minister for the Environment. Officials from the Department for Strategic Policy, Performance and Population will advise and support the Minister in developing the new Island Plan.

The independence of Statistics Jersey is guaranteed within the Statistics and Census (Jersey) Law 2018, which provides for Statistics Jersey to act independently in exercising any of its official statistical functions. The Law also provides for the independent Statistics Users Group to oversee the quality, relevance and integrity of official statistics.

As a States Member, I very much value the work of Statistics Jersey and its independence, and the advice it provides to all of us. It is important that its independence is protected and should be strengthened wherever this is necessary.

Furthermore, as Chief Minister, I am aware that concerns have been expressed about whether the checks and balances for the present structure could be strengthened. This is a matter which will be considered by COM in due course.

Additional steps have already been taken, whereby the C&AG and Complaints Board reports are being directly presented to and discussed by COM, which has never happened before.

2.29 THE CONNÉTABLE OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE LEVEL OF PAYMENTS MADE TO INTERIM DIRECTORS GENERAL: [WQ.32/2019]

Question

Further to the answer of the Chairman of the States Employment Board to WQ.273/2018, can the Chief Minister advise how the level of payments made to interim Director Generals align with the strategic priority to reduce income inequality as set out in the Common Strategic Policy 2018 – 2022?

Answer

The Common Strategic Policy outlines a range of actions to help reduce income inequality, including reviewing our tax and social security system, establishing a policy board to deliver policies which support more affordable housing, implementing the disability strategy, and meaningful increases in the minimum wage.

Doing this work, however, does not preclude securing the services of high quality interim staff where staff have moved on, or where extra skills and capacity are needed. Therefore there will be times when interim staff will be required, even if it just to replace someone who departs unexpectedly, and which will be more expensive than a permanent member of staff.

We need to drive improvements in our public services for the benefit of Islanders, including delivering more efficient services, as this enables us to manage the overall tax burden, especially for people at the lower end of the income spectrum.

For example, the Target Operating Model has reduced the number of roles in the first two tiers of the organisation from 67 to 40, as management layers are reduced and services streamlined.

At the same time, interims are by nature short term and over time they provide a legacy of learning and upskilling for local staff. This will help make savings sustainable.

2.30 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING FINANCIAL ASSISTANCE PROVIDED TO THE JERSEY REDS RUGBY CLUB: [WQ.33/2019]

Question

Will the Minister set out in detail all aid which has been given to the Jersey Reds Rugby Club from the time assistance was first provided to the present time, including any conditions that were attached to such assistance; and will he state whether any future assistance has been discussed and, if so, what cost has been attached to it?

Answer

On 9th November 2018 the Minister for Treasury and Resources approved the allocation of stabilisation funding in the sum of £150,000 to Jersey Reds RFC pending the establishment of a Political Oversight Group to develop a comprehensive sports facilities strategy for the Island (Ministerial Decision [MD-T-2018-0131](#) refers). An initial tranche of £75,000 was paid before the end of 2018. The remaining sum is to be paid this month.

Senior officers continue to work with the Club with the aim of making professional rugby sustainable in Jersey. As with the wider work on the development of a sports facilities strategy, this will be overseen by the Political Oversight Group. As yet, no proposals for future assistance have been put to the Political Oversight Group.

2.31 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING POLICY PROPOSALS IN RESPECT OF THE PRIMARY CARE SECTOR: [WQ.34/2019]

Question

Will the Minister set out for members where changes to the primary care sector agreed within 'Health and Social Services: A New Way Forward' (P.82/2018) currently stand; will he advise what further proposals in respect of primary care, if any, beyond P.82/2012 are currently in development; and will he detail all the meetings that have taken place with the sector over the last two years, setting out what has been agreed and the timetable for implementation of any such agreements?

Answer

The Sustainable Primary Care strategy was published in December 2015 and was developed following the agreement of the States Assembly to P.82/2012.

It set out our commitments to:

- Develop a better understanding of our health needs
- Support Islanders to lead healthy lives and encourage them to manage their own conditions
- Explore how taxpayers' money can be used more effectively to support primary care services
- Work in a more integrated way across the whole system
- Develop the skills required to meet future challenges, such as long-term conditions
- Develop governance and IT processes to support quality, safe, and efficient delivery of care.

The ambitions of the strategy remain convincing and I am committed to working in partnership with primary care professionals to develop and test new models of delivering primary health care, which encourage prevention and keep our population healthy.

After the strategy was published, primary care professionals were given the opportunity to put forward plans for pilot projects testing out the ideas within the strategy. Three pilots were chosen for funding and have been implemented. These pilots concerned diabetes, COPD (chronic obstructive pulmonary disease ie lung diseases) and medicines support on leaving hospital. They are now all complete and are in the process of being evaluated, which will provide valuable lessons learned and operational intelligence about successes and challenges of delivering care in different ways.

We've also developed projections of how many people will be living with long-term conditions in the future, which will help us to address some of the biggest challenges.

Other work is under way that will develop additional services to deliver the strategy's ambitions:

- GPs and pharmacists working closely with partners from FNHC, Hospice and Jersey General Hospital to ensure that discharges from hospital are safe, planned and as early as possible, with support for patients in the community or closer to home. This will:
 - Help patients recover more quickly by effectively coordinating their post-discharge care and reducing the risk of institutionalisation
 - Improve end of life care
- Support service users with low-level mental health problems by introducing psychological interventions in general practice, including social prescribing to direct individuals to appropriate voluntary and community sector services.

The Department for Health and Community Services has also set out its key objectives for 2019 in the Transition Report 2019 (R.155/2018). This includes a number of key developments that will involve close work with primary care:

- Encourage professional groups to begin to shift more resources into preventative and primary care services
- Complete a review of children's dental health services
- Strengthen community-based services to support people with long-term conditions, so they can live more independently
- Improve processes and systems for obtaining and addressing feedback, complaints and compliments from service users
- Work in partnership with voluntary and community organisations to improve delivery of services
- Review funding mechanisms and user-pay arrangements, which have long acted as barriers to change on the island.

Officers representing Health and Community Services and the island's social security function meet on a regular basis with stakeholders from across primary care and as such developing an accurate, detailed schedule of past meetings would be impracticable.

Specifically:

- Representatives from general practice, community pharmacy, and Family Nursing and Home Care meet every other week with States of Jersey officers about ongoing strategy and planning
- GPs are involved in regular discussions about operational challenges, Jersey Quality Improvement Framework, and pathway and business development opportunities
- A number of discussions with community dentists about developing new models of governance and care for Jersey
- GPs, community pharmacists, FNHC, Hospice and community dentists have provided valuable input and feedback into the design of the Jersey Care Model and Health and Community System organisational structure, which was published as part of the OneHCS target operating model consultation. The proposed structure raises the profile of primary care within an integrated health and care system and demonstrates Health and Community Services' commitment as system leader to developing primary and community services.

2.32 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE REDUCTION IN ANTICIPATED FEE INCOME FROM THE CARE SECTOR IN 2018: [WQ.35/2019]

Question

Will the Minister explain why anticipated fee income from the care sector did not materialise in 2018, which has resulted in her approval to provide £200,000 in funding to support implementation of regulation of care legislation?

Answer

Additional income of £200,000 from the new regulation of care legislation was projected and budgeted for in 2018, assuming an accelerated introduction of the legislation and a widening of the fee regime. The legislation has, however, remained on schedule for introduction in 2019. Accordingly, the funding now approved is not to fund the new Law, but instead to fund the shortfall from the non-receipt of income budgeted to be received in 2018.

2.33 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE RESPONSIBILITY FOR ENFORCEMENT ACTIONS UNDERTAKEN ON BEHALF OF THE STATES OF JERSEY: [WQ.36/2019]

Question

Will the Minister explain whether responsibility for enforcement actions undertaken on behalf of States of Jersey departments has been centralised and, if so, what the staffing of this centralised section is; what procedures and timescales for enforcement actions have been adopted; and what system of checks and balances has been established?

Answer

To support greater efficiency and consistency, various regulatory and enforcement functions have been brought together, and are now working alongside each other as part of a new regulatory section within the Growth, Housing and Environment Department.

The staffing is of these functions, which include planning, building control, environmental protection, environmental health, trading standards, and driver and vehicle standards, is approximately 100 staff.

Bringing these functions together helps promote best practise, and while each function retains its own procedures and timescales as are suited to the service, common protocols will be applied where appropriate.

In addition, a range of enforcement actions undertaken on behalf of the States of Jersey continue to take place within other departments, recognising the specialist nature of the activity. For example, the Health and Safety Inspectorate, including its enforcement, falls under the Justice and Home Affairs Department, and issues of benefit compliance fall under Customer and Local Services Department. The regulatory section within the Growth, Housing and Environment Department will support and promote best regulatory practise across these and other areas, ensuring Islanders are served by appropriate, high quality, efficient regulation and enforcement.

As Chief Minister, I am aware that some concerns have been expressed about whether the checks and balances for the present structure could be strengthened. This is a matter which will be considered by COM in due course.

3. Oral Questions

3.1 Deputy R.J. Ward of St. Helier of the Minister for the Environment regarding a statement condemning the resumption of whaling by Japan: [OQ.3/2019]

Will the Minister request the Council of Ministers, on behalf of the Government of Jersey, to issue a statement to condemn Japan's decision to withdraw from the International Whaling Commission and to resume commercial whaling?

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

Japan's decision to withdraw from the International Whaling Commission and resume commercial whaling in their waters has been widely criticised by governments across the world, including the United Kingdom. That is referred to in a statement from their Environment Secretary on 28th December 2018. I share the concerns that have been raised and would like to make clear to the Assembly that as a Minister, as a member of what we now refer to as the Government of Jersey or Council of Ministers, I am both disappointed at Japan's withdrawal and opposed to commercial whaling.

3.1.1 Deputy R.J. Ward:

Issues such as this, and other wider environmental issues, given that Jersey is a small Island with a particular environment that we have to protect, should be on the agenda when we are talking to communities around the world with regards to our business and finance links, particularly after Brexit as we move around the world and look for other sources of investment in the Island. Can the Minister reassure us that that is one of the pressures that would be put on to other jurisdictions given the importance of protecting the planet that we have?

Deputy J.H. Young:

I think the Deputy raises an important point and I agree with the sentiment. In terms of how we achieve that I think is a matter that warrants further discussion. But as far as my brief as Minister for the Environment is concerned, that does not extend to myself communicating with other governments. We generally rely on the U.K.'s (United Kingdom) wider reach to lobby on areas such as this and defer to the U.K.'s foreign policy line.

[11:00]

This is especially true with countries that we do not have bilateral relations with, such as Japan. So I think this is a matter which I certainly will discuss with the Minister for External Relations, who is obviously the expert in these matters and protocols. I believe for now, I think it is sufficient that my answer to the question in the States Assembly is on record should suffice.

Deputy R.J. Ward:

May I suggest, as I have in the past, that climate change and environmental issues become a standing order on Council of Ministers' agenda as it is something that affects every single member of this Island and way beyond our shores?

3.2 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the rationale behind the decision to grant £100,000 to the Jersey College for Girls Foundation for marketing the school to Chinese students: [OQ.12/2019]

Will the Minister explain the rationale behind her decision to grant £100,000 to the Jersey College for Girls Foundation for marketing the school to Chinese students and the process by which the bid was made, identifying the Ministers and senior officers involved; and will she state what other bids, if any, were considered at the same time and not prioritised?

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

The Assistant Minister will answer this question.

Deputy L.B.E. Ash of St. Clement (Assistant Minister for Treasury and Resources - rapporteur):

Firstly, I think some of this question probably belongs in the realms of Education or International Relations, but I shall endeavour to answer it as thoroughly as I can. The original request for funding was made by the Education Department and it was previously considered by the E.D.G.D.P. (Economic Development and Growth Drawdown Provision) officer group in October 2017 and then again in June 2018. The group comprised the Chief Executive Officer, the Treasurer of the States and the Chief Economic Adviser and an economic assessment was then carried out. It would be fair to say that the application was progressing very positively but there were certain processes still to be completed. Following creation of the I.A.B. (Investment Appraisal Board), this body then reconsidered the request. Their role was to (a) determine funding availability as part of the contingency funding and (b) review the continued strategic fit. The board consists of 4 officers who made recommendations to the Chief Executive Officer and the States Treasurer who then make recommendations to the Minister for Treasury and Resources herself. The Minister agreed with their recommendations that there was a good range of evidence to support the pilot. The request has been put forward with the knowledge of the Minister for Education and background information has been provided to 2 Scrutiny Panels. Finally, in accordance with the Public Finances Law, which delegates the Minister the authority to allocate funding from the contingency, she does so on the basis of well-researched advice from officers who I can assure you will testify that the Minister, and anyone who knows her would agree with this, does not exercise her delegation lightly or without many questions of her own. As to the rationale, I have not the time allocated to run through this; this is the rationale.

As you can see, it is quite substantial. It is not just sticking a finger up and making a decision. I will give you some of the highlights though.

The Bailiff:

You are supposed to answer within 90 seconds and you have already taken 2 minutes.

Deputy L.B.E. Ash:

I will come back to the rationale then later, should I be asked.

3.2.1 Deputy M.R. Higgins:

First, the question was about the rationale. We had 2 minutes of waffle. Can I ask the Assistant Minister, should the States be funding what is largely a private education establishment to go into business? It is not education and were any other education bids rejected or delayed at the same time to enable this one to go through?

Deputy L.B.E. Ash:

There were 4 questions initially asked and I answered about 3 of them. Obviously, as I said, there are international relations to be considered. There is the whole quality of the education that we can offer the children at J.C.G. (Jersey College for Girls) and beyond. I will now give you the rationale, as I have got time. This is if it works, which obviously that is why we are marketing it. Money will come into Jersey economy and into tourism from wealthy overseas individuals; international experience for our students; investment into facilities, in particular S.T.E.M (science, technology, engineering and maths) at the college; income to the college to invest in providing additional scholarship for Jersey low-income families to access and enhance education; heighten the importance of positive international relations; enhanced opportunities for all students to target global universities; deliver education events and resources open to all young people in the Island. Also it will give Chinese students the opportunity to come over here and maybe we can build some bridges and they can tap into the school of excellence that we have with over 50,000 hospital planning advisers.

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

Is the Assistant Minister aware that we, in Jersey, have well-established language schools which struggle to find host families, particularly in the summer, but they operate all year round, and that this trial could well make their job much more difficult and threaten their livelihood, and could result in unfair competition subsidised by the States?

Deputy L.B.E. Ash:

That question was indeed considered. Questions were asked about the potential impact this would have on those other organisations that use homestay for their students. The arguments that are put forward by J.C.G. though are that numbers will be relatively low, particularly in the initial stages. We are not talking about hundreds of people arriving. Due to the differences in the duration of courses J.C.G.'s course will be a full year. Other providers are generally short courses. They would not necessarily be in direct competition with other providers. They also expect to be able to recruit homestay providers that are not already taking in students for other schools, i.e. current J.C.G. parents or those who might be attracted to the longer-term arrangement and were not previously attracted to shorter term arrangements with the other schools.

3.2.3 Senator K.L. Moore:

Does the Investment Appraisal Board, when providing its rationale to the Minister, inform the Minister what proposals have been turned down by the Investment Appraisal Board so that the Minister might appreciate what is not receiving funding when determining what should receive funding?

Deputy L.B.E. Ash:

I know some that have been turned down, others not. There are over 100 requests and some are still being processed. There is no definite list of people who have been turned down yet because other people will still ... as you can see from this. To sort through 100 requests takes quite a lot of hard work and with 4 people doing it, it is not that easy just to quickly say: "This one, not that one." Particularly as people have put quite a lot of work into putting these things together. It is also worth stressing as well that these are contingency budgets. These are budgets that are up and above what has been asked. All these departments have already been given substantial sums of money. It is just that occasionally people will come back with, to put it in an educational thing, an extracurricular sum that is needed.

3.2.4 Deputy M. Tadier:

The Assistant Minister expanded the merits of this scheme, which I have to say are axiomatic. Of course there will be positives to this scheme. But that is missing the point. Can the Assistant Minister clarify whether this scheme is likely to make money for the school and the Foundation? If it does make money in excess of £100,000, will it be expected that any of that grant or all of that grant should be paid back?

Deputy L.B.E. Ash:

At the moment, it is a pilot scheme so it is very much in its infancy. I certainly would hope that the grant, should it be a success - and I think we would all hope it is a success - would be paid back. But that is all still to be discussed at the moment.

3.2.5 Deputy M. Tadier:

Does the Assistant Minister accept that when we are giving money in this order of sum to what is essentially a fee-paying school, an argument could easily be made why we should not be giving similar amounts to States schools, for example, Rouge Bouillon, Haute Vallée, to make equivalent links with Portugal, with Poland, with many other countries in the world, which could be equally valuable and that there is a risk, given the fact that other grants have been made, which could be perceived to be going along a class interest system rather than one to do with merit?

Deputy L.B.E. Ash:

I think the main answer to your question there is that they can apply. Anyone can apply. There is nothing stopping these schools applying, whether they want China, Russia, wherever, and it will be judged on its merits.

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

Could the Assistant Minister confirm when he was reading from the rationale whether that was a bid document provided by J.C.G. Foundation or the actual decision rationale from the officers as to how they made their decision? Regardless of that answer, would he be happy to make the decision-making rationale available to States Members?

Deputy L.B.E. Ash:

This is the summary business case that I showed you earlier by the States.

Deputy K.F. Morel:

So it is not the rationale, it is the bid document?

Deputy L.B.E. Ash:

Yes, that is correct.

The Bailiff:

The second part of the question is: would you circulate that to Members?

Deputy L.B.E. Ash:

I think until the full process has been gone through, no, we would not be putting anything out until all the rationales have been seen from all the other bids. It would be wrong just to put one bid out there with a rationale until we have finalised the whole process.

3.2.7 Deputy R.J. Ward:

Given the time in which some students would be here could be an entire course of their education is it a requirement that parents who are caring for these children enter into the same process as fostering? So has any impact been undertaken as to the effect on the current fostering services, where there is a huge shortage of families for foster carers and whether or not this decision will reduce that pool and therefore make the situation worse for other Islanders?

Deputy L.B.E. Ash:

I have to say that I have no knowledge that we have gone into any research as to how it would affect existing fostering families should we get 2 or 3 Chinese students over here.

3.2.8 Senator S.C. Ferguson:

If the numbers are low how will this particular policy improve S.T.E.M.? Is the Assistant Minister not aware that more is being done in a fantastic programme in States primary schools, which is being supplied free by a 2(1)(e) resident? Is that not better value for money and should we perhaps not be looking at that more than a few people in a particular organisation?

Deputy L.B.E. Ash:

I do take the Senator's point but we are looking at this as merely education. There are international things that we can hopefully build, there is a whole process that this can lock into it in a roundabout thinking. It is not just merely education. There are other international affairs. As I said at the beginning, it is education and international. The finance side is all that the Treasurer is dealing in. So as far as the benefits that the education or international are getting, that would have to be a separate question.

The Bailiff:

Deputy Perchard and final supplementary.

Senator S.C. Ferguson:

I am sorry, Sir, I did have a ...

The Bailiff:

I am sorry, we have been going on for nearly 15 minutes already.

3.2.9 Deputy J.H. Perchard of St. Saviour:

Apologies, I was a bit unclear on the Assistant Minister's response to Deputy Ward's question pertaining to fostering. Can the Assistant Minister confirm that international students coming to J.C.G. will be fostered by local families and not in a typical homestay in which safeguarding requires them to move every 28 days? If that is the case, why has a study not been done into the impact that it is going to have on local foster carers and the need for local children to be fostered and the impact on things like the drain on social workers' time, *et cetera*?

Deputy L.B.E. Ash:

I think that from the initial pilot scheme that we are looking at, the idea is not to foster people out, it is merely to put them with existing families of parents. There will be, obviously, all the full

safeguards put in but it will not be part of Jersey's fostering community, if you like. That is, as I understand it at the moment, and that is all I can comment on.

Deputy J.H. Perchard:

Sir, may I ask a quick supplementary question? Can I just have clarification?

The Bailiff:

I just refused Senator Ferguson, Deputy. You can, go on then, clarification. **[Laughter]**

Deputy J.H. Perchard:

Does this mean, if the students are not being fostered, that they will be rotated every 28 days, as is recognised as good safeguarding practise?

Deputy L.B.E. Ash:

I will just say I am not familiar with the fostering side of this arrangement. It is really Education who would have to answer on that, as it has merely been a Treasury decision.

3.2.10 Deputy M.R. Higgins:

One of the questions I was asking: were any other bids turned down or not deemed to be priorities? There were bids, other Education bids.

[11:15]

Did the Minister consult with the Minister for Education about whether this was her top priority or the other education items were priorities? What consultation took place?

Deputy L.B.E. Ash:

As I think I said earlier, it comes through the Investment Appraisal Board, so, no, we did not consult as our body. It comes through the Investment Appraisal Board and any other education project would be put to the Investment Appraisal Board and they would judge it on its merits.

3.3 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding the progress made by the working party established to examine the role of the Bailiff: [OQ.2/2019]

Will the chairman update the Assembly on the progress made by the working party established to examine the dual role of the Bailiff and will he explain when he anticipates this work will culminate in a proposition to be brought before the Assembly?

Deputy R. Labey of St. Helier (Chairman, Privileges and Procedures Committee):

The working party has one more meeting this week. I anticipate a further meeting of the working party. We have proposals being drafted and nearing completion, which will then go to P.P.C. and P.P.C. will bring the resulting proposition, I think and hope, certainly in quarter one, so by March, I believe.

3.3.1 Senator S.Y. Mézec:

Obviously, the time is ticking on this if we wish to have an elected Speaker upon the retirement of the current Speaker. Would the chairman be able to indicate exactly when the deadline is for getting legislation passed and approved by the Privy Council so that that process can be dealt with by the end of this year?

Deputy R. Labey:

I will have to advise the Senator of the exact date and I am happy to do that. We are, on that working party, extremely cognisant of the timeline and we are working as fast as we can.

3.3.2 Senator S.Y. Mézec:

Final supplementary question, Sir. The chairman will be aware that a proposition was brought to the Assembly by Senator Gorst, a proposition which, I believe, ticked all the boxes and, I believe personally, it is difficult to find a better proposition from that. Could the chairman give any sort of indication if the proposition that the working party will be proposing has any differences to that proposition or whether it is based on the good work that was done by Senator Gorst?

Deputy R. Labey:

We are looking at that proposition, as well as one that might have differences to it. I do not want to jump the gun on this for the Senator, if you will forgive me, because whatever the working party decides it then has to go to the full P.P.C., who then bring the resulting proposition. I think it would be wrong for me to speculate on what the working party might recommend and then what P.P.C. might recommend.

3.4 Deputy D. Johnson of St. Mary of the Minister for Treasury and Resources regarding the introduction of waste charges: [OQ.14/2019]

Following the Assembly's decision on 19th July 2017 to move the next item and to leave the debate on the proposition to introduce waste charges so as to allow for further consultation and with the debate to resume the following autumn, will the Minister advise what steps, if any, have since been taken to progress matters?

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

As Members will be aware, the Council of Ministers has made the protection of our environment one of our 5 strategic priorities. As Members know, the Minister for the Environment intends to undertake wide-ranging reviews to deliver on this ambition and I pledged my support for that in my first Budget speech. The development of any environmental taxation measures arising from broader reviews of environmental strategy and policy will be led by Treasury officials and will be proposed by me in future Budgets. Both the Minister for the Environment and I remain keen to explore the case for levying user-pays waste charges.

3.4.1 The Deputy of St. Mary:

I thank the Minister for that. But is she aware that by letter of 19th October 2017 from the then Chief Minister to myself, as chairman of the Scrutiny Panel, the Chief Minister then advised that they wished to undertake additional consultation over the next 5 months? I quote: "The results of this consultation will be presented to the new Council of Ministers and Scrutiny Panel to be ready for a debate in the autumn of 2018, if directed to do so." Will the Minister please clarify whether that consultation did in fact take place or whether it is simply a question of the Council not having directed anything further?

Deputy S.J. Pinel:

I was not aware of the letter of 19th October from the Scrutiny Panel. I think the discussion on waste charges got rather lost in the twilight of the last Assembly. There is no reason, however, to not bring it back and I expect it will take the Growth, Housing and Environment Department some time to complete its first phase of review work. If that leads to recommendations for user-pays commercial waste charges, I will then ask Treasury officials to consult on an appropriate scheme and develop a measure for the next Budget, for Budget 2021, depending on the time taken.

3.4.2 The Deputy of St. Mary:

I thank the Minister for her confirmation that there is no reason to bring it back. I simply point out though that the delay has resulted in a shortfall in the M.T.F.P. (Medium Term Financial Plan), which has been given as a reason for not implementing certain financial operations. Could I ask the Minister to seek to introduce this as a matter of priority?

Deputy S.J. Pinel:

Yes, the Deputy is quite right, there has been a shortfall due to the lack of the introduction of the waste charges, which has caused quite a considerable problem.

3.5 Deputy L.M.C. Doublet of St. Saviour of the Chief Minister regarding the implementation of the ‘United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees’ (P.63/2017): [OQ.1/2019]

What progress has the Chief Minister made in implementing United Nations Convention on the Rights of the Child: compliance of draft Laws and training of States of Jersey employees, P.63/2017, which was adopted by the States on 26th September 2017?

Senator J.A.N. Le Fondré:

Yes, and my Assistant Chief Minister, the Deputy of Grouville, is answering this question, Sir.

Deputy C.F. Labey of Grouville (Assistant Chief Minister - rapporteur):

On 2nd October 2018 the Minister for Children and Housing issued a Ministerial Decision for law-drafting instructions to bring into effect the Council of Ministers’ policy decision to indirectly incorporate the U.N.C.R.C. (United Nations Convention on the Rights of the Child) into domestic legislation. The new legislation will introduce the statutory duty on the States of Jersey to have due regard to the convention in legislation and policy, as is the case in the Welsh Assembly. As part of implementing this programme of work, all States of Jersey employees will be provided with a copy of the U.N.C.R.C., as well as a package of training measures addressing the provisions and implications of the convention.

3.5.1 Deputy L.M.C. Doublet:

I have been briefed on this by the Children’s Commissioner, so I have a certain level of information. But it did concern me that this was a States decision, it was not just my own decision. It was unanimously passed by the previous Assembly. The purpose of my proposition at that time was to contribute to a culture change within the States workforce and within the Council of Ministers and our Parliament. Can I ask the Assistant Minister: does she believe that that culture change is in effect in this Council of Ministers, as in: is every Minister considering children as a matter of course when they are forming policy and drafting legislation?

The Deputy of Grouville:

I would answer that by saying that by putting this - and the Deputy played a good part in this, having her proposition passed - I see as a transition period to indirectly incorporate the U.N.C.R.C. During that time, as we introduce policy, we will be able to give focus on the international legislation as we bring it into domestic legislation. During that period staff will be trained; front line staff, staff in the judiciary and if anyone wanted to see the cultural change happening already, it is happening with children in schools. As the good Deputy will know, Grouville School was the first school to introduce this and they are now progressing on to a gold award scheme. There are 16 schools registered and, my goodness me, I was very, very enlightened when I attended one of their classes as they told me the rights of children. But more specifically, to answer her question, yes, I feel it is on the agenda now. We now have a Minister for Children, as we have never had before, and, as she knows, it is

one of the States top priorities to put children first. It is most firmly on the agenda and, as most things with a cultural change, that takes a bit longer.

3.5.2 Deputy L.M.C. Doublet:

Can I just clarify the response? Is every Minister considering children as a matter of course over the course of their work, every Minister?

The Bailiff:

That was another question and the rule is you wait until you are invited to speak.

Deputy L.M.C. Doublet:

Sorry, Sir, that was the gist of my question and I did not feel it was answered.

The Deputy of Grouville:

We now have a Minister for Children around the Council of Ministers' table. As we discuss issues, then he sits there and he comes from the discussion point of view, from a housing and children perspective and it is one of the top 5 strategic priorities. Obviously, it is going to play a part in every aspect of Government decision-making.

3.5.3 Deputy K.F. Morel:

Given the intention to implement the United Nations Convention on the Rights of the Child and also given the priority, children as a priority, as is shown in the Common Strategic Priorities, can the Minister assure us that she and her ministerial colleagues will be supporting the proposition today, P.144, as it is an important move towards implementing the United Nations Rights of the Child?

The Deputy of Grouville:

I believe the whole suite of package from the U.N.C.R.C. was going to be adopted or going to be brought to this Assembly for consideration, in which P.144 was part of that. I cannot speak for other Ministers but it is up to Ministers how they vote on that particular element or whether they wait until the whole package comes forward or whether they disagree with the notion. I really cannot speak for my fellow Ministers.

3.5.4 Deputy R.J. Ward:

Do you believe that it is congruent with the Convention on Human Rights for Jersey Government to charge the children of E.U. (European Union) nationals £12.50 to be part of our community?

The Deputy of Grouville:

I believe this is the cost of registering them, so somebody has got to pay for it and why not the people receiving the benefit?

3.5.5 Deputy M. Tadier:

Are there any implications for the practice of child labour when it comes to the U.N. (United Nations) Convention on Children's Rights and how that might affect Jersey?

The Deputy of Grouville:

Child labour in Jersey, the impact of child labour in Jersey; I am unaware of child labour in Jersey.

3.5.6 Deputy L.M.C. Doublet:

Does the Minister agree that decisions of the previous Assembly should be respected and, where possible, should come back to the new Assembly if a significant change is made to them? One of the decisions, one part of the proposition, P.63/2017, was to send a copy of the U.N.C.R.C. to all States employees. I understand that will be sent as part of a training package. But I do believe that

there is a facility whereby the Chief Minister can directly email all States employees and this has been used frequently by the chief executive recently. I would like to press on that particular part of the proposition, it could be easily achieved within a day via a simple email. Would the Assistant Minister agree to look into that part and have at least that part fulfilled in short order?

The Deputy of Grouville:

Yes, I believe that is going to be undertaken in the first instance but it is also going to be followed up with a package of training that is relevant to people's specific areas of responsibility.

3.6 The Connétable of St. Brelade of the Minister for Treasury and Resources regarding domiciliary care cost exemptions from G.S.T: [OQ.10/2019]

Will the Minister explain to Members why domiciliary care costs were not exempted from G.S.T. (Goods and Services Tax) prior to 1st January 2019?

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

In 2008 the States Assembly supported the introduction of G.S.T. at a low rate, broadly applied, that would minimise the costs of administration, both by businesses and the taxes office. Relief from G.S.T. was originally limited to services provided by regulated providers, which at that time did not include non-residential care provided by independent or private sector providers who were unregulated.

[11:30]

These providers are now to be regulated under the framework that the States Assembly adopted last December. This change in G.S.T. treatment was deliberately brought in, alongside the changes to the regulatory framework. With changing and increasing demands for care services in society over the last decade, partly arising from an ageing population and consequential developments in a way in which the care is provided - for example, with an increasing emphasis on provision in the home - Ministers judged it right to extend the relief from G.S.T. to the provision of so-called domiciliary care by a wider range of providers.

3.6.1 The Connétable of St. Brelade:

Would the Minister agree that in fact domiciliary care has been regulated for some time, I think probably going back to early 2017, if not 2016? Would she not agree that those paying G.S.T. on domiciliary care have been disadvantaged by this oversight from the Treasury?

Deputy S.J. Pinel:

Yes, I can see what the Connétable is saying. However, it depends on who the domiciliary care provider is; if they are an exempt business they would not be paying G.S.T. anyway. Any business that has a turnover of less than £300,000 would not be paying G.S.T. It has taken a while to come in but it was waiting for the Regulation of Care Law, which came in on 1st January this year, which ties the whole package together. But I can see what you are saying, it did take a long time.

3.6.2 Deputy K.F. Morel:

Would the Minister explain the rationale behind this differentiation in regulated services and non-regulated services? Care provided to people is care provided to people, whether it is within a regulated industry or not. I do not understand why G.S.T. could be removed on the one hand, relief given on the one hand and not on the other, just because whether it is regulated or not.

Deputy S.J. Pinel:

The provision, be it domiciliary or in care homes, has to be regulated, which has caused a bit of a problem but it has had to be regulated, inasmuch as a regulated care provider has to be provided. It cannot, for instance, be a family member or somebody who has not got regulated provision of care. It was agreed in 2007 when G.S.T. law was being developed that the States would uniquely be zero-rated in respect of its own provision of healthcare services, which allows departments to reclaim all of the G.S.T. charged on them on the supplies they receive. Essentially, the States is not taxing itself for obvious reasons because of the circularity of funding.

Deputy K.F. Morel:

I apologise at my ignorance, I do not quite understand. Are you saying only the States exempted itself and nobody else because of regulation?

Deputy S.J. Pinel:

Yes, the States residential nursing homes were exempt from G.S.T. but the question was about the domiciliary care, I think, rather than the States residential homes.

The Connétable of St. Brelade:

I thank the Minister for her response.

3.7 Deputy K.G. Pamplin of St. Saviour of the Minister for Health and Social Services regarding the role of the new Director General of Health and Community Services in relation to Mental Health Services: [OQ.5/2019]

Further to the appointment of the new Director General of Health and Community Services, would the Minister provide an update on the appointment of a Director of Community and Adult Services and a Head of Health Modernisation following the end of their 6-month interim contracts of the current post-holders?

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

The interim contracts of the post-holders in question ended on 20th December 2018. The post of Director of Community and Mental Health Services has not been re-advertised, as the executive leadership for Community and Mental Health Services is now vested in the Group Managing Director of Health and Community Services. This is intended to signify the parity between mental health and community services, alongside the hospital-provided services. As to the other post, as part of the Health and Community Services target operating model, the retention of the post of Head of Health Modernisation for up to 3 years is proposed, while P.82 initiatives are further developed and changes set out in the target operating model consultation document are implemented. The current incumbent to that post is continuing in the role on an interim basis until the substantive post is advertised.

3.7.1 Deputy K.G. Pamplin:

I thank the Minister for his answer. Can I just seek a further clarification about the post-holder that was the Director of Community and Adult Services, as you mentioned, those contracts came up 20th December? As we met him in various guises during various Scrutiny processes that we were undertaking, including our mental health review, to suddenly find he was not available to us. Could we just seek a bit of clarification on what has happened with his role and why he left his interim post?

The Deputy of St. Ouen:

It was always an interim 6-month appointment, which came to an end on 20th December. The reason why that post was not continued is because there is a view that mental health deserves parity with physical health and, therefore, to set it under a separate director was not thought appropriate. It was

thought more appropriate that the group managing director should exercise the executive leadership role covering all aspects of the department.

3.7.2 Deputy K.G. Pamplin:

Does the Minister for Health and Social Services agree with me that as we go forward with the changes to our health system, as recognised by the Comptroller and Auditor General in her report on health governance, that interim contracts were very important? We must be looking forward and ahead to succession planning so that these heavily-paid salaries can be started to look towards people and individuals who work within the Island, that these roles can be developed in the Island for the future, instead of these interim contracts coming in great volume at great time, at great expense to the States of Jersey.

The Deputy of St. Ouen:

I can only agree with the Deputy. I think that is what we should work towards.

3.8 Deputy M. Tadier of the Minister for Health and Social Services regarding the continued employment of a Pain Consultant following comments made to the media regarding the use of medicinal cannabis: [OQ.15/2019]

Further to comments made to the media by a leading pain consultant reported on 19th November 2018 regarding the use of medicinal cannabis, is it the Minister's assessment that consultants who indicate they will not act in accordance with the decisions of the States Assembly should remain in the employment of the States of Jersey?

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

The proposition adopted by the Assembly was permissive and not mandatory. It allowed all medical professionals with the right to prescribe medicines the option to prescribe cannabis-derived medicinal products. For centuries the concepts of clinical autonomy and professional independence have underpinned the practice of medicine in the western world. If I interpret the question correctly, it now appears the questioner considers medical professionals should prescribe under direction of this Assembly or risk their continued employment should they not do so. It has been suggested in the past that there has been a bullying and harassment culture in some parts of the States administration. As States Members, I am sure we will look forward to the imminent launch by the States Employment Board of its bullying and harassment policy. I trust Members will join me in condemning any suggestion that we should impose direction on our medical staff in the way they exercise their professional judgments in the best interests of their patients. The decision on whether or not it is clinically appropriate to prescribe a cannabis-based product must rest with our medical professionals and not States Members. Medical professionals should not feel their employment is at risk if they exercise their clinical judgments in a way that might not meet with the approval of certain States Members. Rather, I hope States Members would share with our medical professionals a desire to seek out good research and proven evidence for the effective use of cannabis in medicine.

3.8.1 Deputy M. Tadier:

There is clearly a difference between us saying or the Minister saying: "We expect you to prescribe" and a specialist saying: "I will not prescribe under any circumstances this medicine, even though I am allowed to", which is the current state of affairs. Let us put this in context. The Minister opposed the move to allow all G.P.s (general practitioners) to be able to prescribe medicinal cannabis saying that we did not need to because he wanted specialists only to be able to prescribe it. In his comments he said: "Legislation is currently being drafted, which would enable certain specialists, including this specialist in question, in Jersey to legally prescribe quality-assured cannabis-derived medicinal products." He was drafting a law to allow his specialist to be able to do that. It surely must put the

Minister in a difficult position when we have pretty much the only one that I can see in Jersey who had the ability to prescribe it saying: "I will not prescribe it, even though the law now allows me to." That is overstepping the mark about permissiveness. He has become political and surely it is time for him either to be reined-in or to be got rid of. Can the Minister comment on that differentiation between permissiveness and insubordination from what is, effectively, a States employee?

The Deputy of St. Ouen:

I consider the Deputy's remarks appalling. He is passing comment on the professional judgment of a gentleman who has spent many years in Jersey addressing difficult issues that Islanders suffer when they are trying to manage their pain and he is doing so in the best interests of his patients. What he has said is, having looked at the professional guidance available to him issued by royal colleges, that he does not envisage being able, within his professional guidance, to administer cannabis-based medicines at the moment. But he has also said that he is willing to investigate the possibility of clinical trials taking place with the patients under his care, should they wish to join any trials, and that is what is happening in the U.K. now. Because those same professional guidelines are being considered by U.K. consultants who are equally in a position where they feel that there is insufficient evidence and clinical trials at this stage to start prescribing against their better judgments. This House, this Assembly, I believe, should support our clinical professionals in seeking to develop that evidence base so that our Islanders can take advantage, if there should be found to be a medicinal case for the use of cannabis. I should also mention that these products and cannabis-based medicines are used and are being prescribed for certain conditions. I think the Deputy's question revolves around a particular element of pain control but cannabis-based medicines are used to treat epilepsies and used, in some cases, for neurological conditions, such as M.S. (multiple sclerosis) and for persons receiving chemotherapy treatments. In all of those I think there is a far greater evidence base for the use of cannabis-based medicines and, therefore, the medicines are being prescribed in those sorts of cases.

3.8.2 Deputy M.R. Higgins:

As it appears that the consultant is trying to thwart what the States was trying to achieve, which was to give pain relief to those who are suffering, will the Minister now support allowing G.P.s to prescribe these medicines if the consultants are not prepared to?

The Deputy of St. Ouen:

It is the case that G.P.s are permitted to prescribe, should they choose to do so. That is what the Assembly decided upon and that is the order that I signed and came into force on 1st January. Every person with the right to prescribe medicines, which would include consultants or G.P.s and some prescribing nurses, have that power, should they think it clinically appropriate to prescribe in that way.

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

I was delighted to hear that the pain consultants would entertain the idea of clinical trials. May I please request that the Minister and myself and my 2 parishioners, who are in chronic pain on every single minute of every single day, meet with the pain consultant and yourself with a view to starting a clinical trial or these 2 volunteering to be clinical trialists? I am not sure if guinea pigs is right.

[11:45]

The Deputy of St. Ouen:

I am very willing to meet with the Deputy. Any clinical trial would be not solely a Jersey trial; it is likely to come from a U.K. teaching hospital or a university and we would seek to join in in some way, so that is being investigated. But, certainly, I will meet with the Deputy should he wish.

3.8.4 Deputy M. Tadier:

It simply does not make sense for the consultant to say: “On the one hand I am not going to prescribe these products because my professional guidelines do not allow me to” but at the same time saying: “But I am going to be doing trials for which I will need to prescribe medicinal cannabis” and the 2 are mutually contradictory. Will the Minister confirm that his comments, again issued to P.113, say that consultants must make decisions on prescribing cannabis-based products on medicinal use on a case-by-case basis? What we are having here is not a case-by-case basis methodology adopted by a consultant but a blanket statement to the media saying: “I will not issue these because my professional guidance does not allow me to”, even though the professional guidance is out of date and is wrong.

The Deputy of St. Ouen:

It was a rather rambling question. I am not too sure exactly what the Deputy is asking me to respond to. Of course, any medical practitioner would be considering the best interests of the patient before him at any one time. Should that practitioner consider that the prescribing of a cannabis-based medicine is appropriate in that case, notwithstanding professional guidance, then the medical practitioner would be at liberty to prescribe and would do so because he considers it to be in the patients’ best interests. But it is a heavy burden to discharge, to go against your professional guidance, to embark upon something that is not yet proven or supported by clinical trials or evidence-based but we can understand from a professional point of view that professional guidance would carry great weight with any professional. But, of course, the question is always: “What is the best for my patient?” That is how I am confident that our practitioners would proceed.

3.9 Deputy S.M. Ahier of St. Helier of the Minister for Health and Social Services regarding charges for hospital prescriptions issued by the Accident And Emergency Department, when filed outside the hospital at local pharmacies: [OQ.7/2019]

Will the Minister advise the Assembly whether hospital prescriptions issued by the Accident and Emergency Department when it falls outside the hospital and local pharmacies due to the hospital pharmacy being closed, are treated as private prescriptions and incur a charge? If so, will the Minister explain why, given that G.P. prescription items are free of charge?

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

I am informed it would be very rare for a prescription from the Emergency Department to be dispensed outside of the hospital. Any urgent medicines required by patients following an Emergency Department attendance will be supplied directly from the department at that time. If patients are given a prescription to take away it will be for a non-urgent medicine, which does not need to be dispensed until the hospital pharmacy is next open. Any hospital prescription presented to a community pharmacy for dispensing will be treated as a private prescription by the community pharmacy. This is because community pharmacies are only reimbursed by Social Security for medicines they dispense, against a Health Insurance Fund prescription issued by a registered G.P.

3.9.1 Deputy S.M. Ahier:

Yes, an emergency prescription - would that be antibiotics? Because if somebody is given antibiotics at the weekend it is imperative they start the course fairly soon and so, obviously, they would have to go and fill the prescription themselves at cost. If a single mother with a child, who obviously did not have a great deal of money available, was in that position it would be costly and they may have to defer obtaining the antibiotics until the Monday. Would it be possible for the Minister to consider extending the opening hours of the hospital pharmacy past its current closing time of 12.30 p.m. on a Saturday?

The Deputy of St. Ouen:

My understanding is that urgent medicines required by patients attending the Emergency Department are not given by prescription for the patient then to go and get that prescription dispensed; the medicines are issued by the department. If it is antibiotics being required and the department considers they should be taken straightaway, those antibiotics would be given to the patient attending. If the patients are given a prescription it is because it is a non-urgent medicine that does not need to be dispensed until the hospital pharmacy is next open. The pharmacy is open on all week days between 9.00 a.m. and 5.00 p.m. and on weekend mornings.

3.10 Deputy R.J. Ward of the Minister for Economic Development, Tourism, Sport and Culture regarding the provision of a secure and reliable ferry service for the Island: [OQ.4/2019]

May I ask the Minister, given the Island's vehicle passenger roll-on, roll-off freight ferry service provider is reportedly for sale this year, will the Minister undertake an investigation into the States nationalising or taking a controlling interest in the service in order to ensure a secure and reliable ferry service for the Island?

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

Condor Ferries forms part of the Macquarie Group and is operated by the Macquarie European Investment Infrastructure Number 2 Fund, which has matured in accordance with its predetermined lifespan. Condor is not yet formally for sale but we have been advised that a sale process will commence shortly. Until such time the company will continue to operate normally. It is predicted that the company will operate normally during and after the sale process. Of course, this is in line with the operating agreement agreed with the States of Jersey operated through the Harbour Master in 2014. Senior officers and I are in regular contact with both Macquarie and Condor and I remain confident that services to and from Jersey will not be adversely affected at all. A change in ownership of Condor will not affect the operating agreements, which have a 10-year lifespan. Subsequently, I have no plans to investigate nationalism of the company or ask the States to consider taking a controlling interest.

3.10.1 Deputy R.J. Ward:

Given the uncertainty of Brexit, does leaving the contract to the vagaries of the free market not expose Jersey to a further level of risk in terms of its passenger service at a time when tourism is increasing, we hope, and that we may be having to adapt very rapidly to changing supply lines? Subsequently, is this not the sort of thing we should investigate in order that we may be able to provide a more certain service and it is the work to investigate that process that the question is about?

Senator L.J. Farnham:

The short answer is, no, we do not anticipate there being the ownership of the shipping company having any impact at all on the logistics during the uncertainty of Brexit. The very close working relationship between Condor and Macquarie and the States of both Jersey and Guernsey means that we are well prepared for any eventuality. I think it is important to let the Assembly know that we are in talks about a reconfiguration of the fleet in the not too distant future, to provide a more robust contingency process in the case of one of the passenger ferries being out of service during peak times. That involves replacing the RoRo ferry with another RoPax ferry, so that is having 2 Clippers instead of a Clipper and the Goodwill in language that we might understand. Of course, Members will also know that the lifeline services that the Channel Islands refer to in their agreements with Condor relate to a freight. I am pleased to say that the freight service, with the exception of prolonged bad weather, has been running successfully and continues to do so. Condor do bring in additional charter vessels to cover eventualities. A detailed process of back-up has been planned over the Brexit period to assist with any delays that might happen in the U.K. ports.

3.10.2 The Connétable of St. Brelade:

I am not sure if the Minister in fact did confirm or not but would he confirm to Members if his department has in fact been having discussions with Guernsey on this very subject?

Senator L.J. Farnham:

Yes, we have.

3.10.3 Deputy K.F. Morel:

A very similar question: could the Minister confirm whether he has liaised with his counterparts in the States of Guernsey with regards to the sale of Condor to ensure that Jersey and Guernsey are singing from the same hymn sheet, have the same aspirations, as far as the sale is concerned? If so, can he confirm whether Jersey and Guernsey do indeed have the same aspirations?

Senator L.J. Farnham:

I am due to meet again shortly with counterparts in Guernsey in February in this matter. It will be high up on the agenda. We have broadly similar interests but we have slightly different interests as well in relation to wanting to get the best deals for our individual islands. Our sister island is slightly more to the north, so they benefit more from day-trippers, whereas we benefit more on the southern route. There is a little bit of juxtapositioning but it is a healthy tension, if I may add. But my own view is that the Channel Islands need to be well served by air and sea links because there is no point Jersey benefiting and Guernsey not or *vice versa* because together in these issues we are stronger and we will benefit more.

3.11 The Connétable of St. Brelade of the Minister for Home Affairs regarding contingency plans in place should drones compromise safety at Jersey Airport: [OQ.11/2019]

Will the Minister advise Members what contingency plans, if any, are in place in the event of drones being sighted in positions that compromise safety at Jersey Airport?

Connétable L. Norman of St. Clement (The Minister for Home Affairs):

It is my understanding that in the circumstances described by the Constable that the Airport Director or the Director of Civil Aviation will take any action that is necessary to ensure the safety of the public. I am told that this could include diverting air traffic and, if circumstances require, the suspension of flights and the police will then be called in to investigate.

3.11.1 The Connétable of St. Brelade:

Has the Minister considered using the technology utilised to control drones in prison zones to obviate their effect on airport operations?

The Connétable of St. Clement:

No, I have not because I have no political responsibility for the airport or any management responsibility for the airport; that would be a matter for the Ports of Jersey and the Director of Civil Aviation.

3.11.2 The Connétable of St. Brelade:

Given that the prisons do come under the Minister's remit, would he agree that it would be sensible to utilise some of the technology and share it with Ports?

The Connétable of St. Clement:

I really am not qualified to comment on that. Clearly, if the Director of Civil Aviation or the Ports of Jersey feel they require additional security measures, they will request it from the appropriate Minister and that Minister is not me.

3.11.3 The Connétable of St. Brelade:

I feel that the Minister is being a bit defensive and I think that Members will be aware that drones have caused considerable difficulties in the U.K. of late. I would urge him to develop a policy with the police, with the prison and in collusion with perhaps the Minister for Economic Development, Tourism, Sport and Culture, as how the matter may be addressed so that the travelling public are not disrupted in the same way they have been recently in Gatwick.

The Connétable of St. Clement:

I am advised that the Director of Civil Aviation is comfortable with the current legislation and facilities but I will pass on the Constable's comments to him for consideration.

The Connétable of St. Brelade:

I thank the Minister.

Senator S.Y. Mézec:

Sir, before I ask my question, could you please just confirm that you are aware that my intention in supplementary questions is to ask questions, which are critical of your recent refusal to allow me to ask a question that relates to your office?

The Bailiff:

Those questions may or may not be in order and I would not know that until you asked them.

[12:00]

But on the face of it, the chairman of the Privileges and Procedures Committee, if invited to discuss the ruling which has been made by the Chair to disallow a question that the Chair thinks is out of order, would not be able to answer that question because the P.P.C. has no remit over such decisions; that remit lies with the Chair. Until I hear what the supplementary question is, I do not know whether it is in order or not.

3.12 Senator S.Y. Mézec of the Chairman, Privileges and Procedures Committee regarding how questions from elected States Members are either approved or disallowed: [OQ.9/2019]

Will the chairman explain what consideration, if any, his committee has given to the provisions of Standing Orders which govern how questions from elected States Members are either approved or disallowed? Will he undertake to consider an amendment to Standing Orders that would explicitly allow Members a right of appeal when they believe Standing Orders have been wrongfully enforced in disallowing a question?

Deputy R. Labey (Chairman, Privileges and Procedures Committee):

The short answer is none but I am happy to pursue this with P.P.C. if the Senator wishes. I would just say that it is overwhelmingly the norm in Parliaments throughout the world, especially those based on the Westminster system, that the Presiding Officer is the final arbiter of what goes on in the debating chamber and a spectacular example of which we saw last week with Speaker Bercow. It is difficult, is it not, to imagine who else might undertake that role? It would be wrong, would it not, to farm it out to an outside body? I do understand the Senator's frustration. I have been there myself but on those occasions I was invited by the Presiding Officer to go and talk to him and meet with him

and discuss it; that is a form of appeal to be heard. On those occasions I have always found it very courteous and respectful and informative and educative, it was nothing like a visit to the headmaster's office, about which I have much experience.

3.12.1 Senator S.Y. Mézec:

Likewise, I have much experience of that too. It is, of course, the case that in Westminster Parliaments that the Presiding Officer has the final say but it is also the case that in Westminster Parliaments the Presiding Officer is elected by the membership of that Parliament and is also a judge. The question that I attempted to ask, which I am not asking the chairman to answer now but the question that I attempted to have lodged was this: "Following the announcement that the current Bailiff will retire at the end of this year, will the chairman state what involvement, if any, he has had in the appointment of a new Presiding Officer for the States Assembly and what involvement, if any, he will have in the appointment of a new Deputy Presiding Officer, once the current Deputy Bailiff has become Bailiff? Secondly, whether it is his assessment that the current appointment process is satisfactory and, if not, what changes will he be seeking to have implemented?" Would the chairman indicate whether he believes that it is appropriate for the Bailiff to be ruling on questions that are to do with his office, when there is no right of appeal, given that it is such a fundamentally important institution in this Island, both in this Parliament and in the courts?

The Bailiff:

If I may help you, Chairman, there is nobody else to rule on it; that is the system

Deputy R. Labey:

It is wonderful to be back living the dream in this Chamber. At the moment, as I said, the Presiding Officer is the ultimate arbiter of what happens in this Chamber, including approving questions. That is the situation at present. It will be that the States will be asked to consider proposals as regards the future role of the Bailiff and the dual role of the Bailiff. No doubt in those debates that will shortly be upon us, these sorts of questions will arise and be debated and discussed.

3.12.2 Deputy M.R. Higgins:

Can I ask the chairman if he is going to look at the questions that are being put by Members, also look at propositions put forward, again, because similar problems have arisen in the past?

Deputy R. Labey:

What P.P.C. does is respond as quickly as it possibly can to representations, usually in written form or an email, from Members. Just at the last December meeting we had 2 such communications: one we felt we just had to dismiss and it was about questions; and one you will know from the Bailiff's ruling this morning, we took swift and decisive action on. The P.P.C. is open to discussing any issue about the business of this House, which Members wish it to do.

3.12.3 Deputy M. Tadier:

Lord Carswell said that the Speaker of any Assembly should be the servant of the Assembly and it follows from that that when there is a decision about which a Member may disagree, there might perceivably be some form or mechanism by which to contest that; an appeals process, if you like. What mechanisms do exist in the Jersey context where a Member feels aggrieved that a decision has not been the correct one? Is it anything other than a vote of no confidence or a vote of censure in the decision making?

Deputy R. Labey:

As I said in my first answer, the Presiding Officer is always open and his door is open to Members who have an issue or a problem with one of his rulings. One is, as a matter of form, I believe, invited to attend upon the Bailiff and that is a form of appeal and a useful and interesting discussion will

ensue, I am sure. I am not, I have to be honest, exactly sure of what is in the statute as regards appeals that the Deputy is chasing here.

3.12.4 Deputy M. Tadier:

Is it not also the case that in the absence of the Bailiff or the Deputy Bailiff the Greffiers start to chair this Assembly and they do routinely on a day-to-day basis, effectively making the decisions about what questions are in order and what other items are in order? Obviously, in the absence of any Bailiff Chair, that it will be Greffier staff who are making those decisions. Why can it not be that, ultimately, the Greffier's decision on whether questions are in order or not should be taken and then can be appealed in that way?

Deputy R. Labey:

That is a view and many of the questions and propositions will pass through the Greffier's office quite swiftly without reference to the Presiding Officer. But occasionally the Greffier will find something which he is grateful of the opportunity to clear with the Presiding Officer, if it is a contentious point.

3.12.5 Senator S.Y. Mézec:

There were helpful comments made earlier in the Assembly about Members being protected from interference when carrying out their duties. Does the chairman consider it right that an elected Member can be prevented by an unelected Member in trying to fulfil their mandate, which is to challenge not just the people but the processes that affects the governance of this Island? Does he consider that to be a satisfactory or democratic state of affairs? Will he give further consideration to finding a mechanism where these decisions do not have to lie in the hands of people who are unelected?

Deputy R. Labey:

Can I just say that it is unfortunate and frustrating when a ruling by the Presiding Officer goes against one? But there are all sorts of rulings that Members might even not be aware of that happen that, directly or vicariously, is helpful to Members. There are things that happen, rulings made by the Presiding Officer, which can be in Members' favour and maybe the Members do not even know about it. There are 2 sides to the coin. The issues that the Member raises, I repeat, will be one that we will debate very shortly in this Assembly.

The Bailiff:

Can I say, for the benefit of all Members, that the process for the appointment of the next Deputy Bailiff has been uplifted to the Bailiff's website? It is available for the public to see. Also, that in the light of the questions that Senator Mézec has put to the chairman, I shall be publishing my ruling in full. That ruling was preceded by an invitation to Senator Mézec to come and see me and discuss how the question could be put in order but he declined to do so.

3.13 Deputy K.G. Pamplin of the Minister for Health and Social Services regarding plans to support Islanders' medical needs in the event of a 'No Deal Brexit': [OQ.6/2019]

Will the Minister advise what plans, if any, are in place to support Islanders' medical needs, including the delivery of medical supplies to the Island, the transfer of patients and their families in and out of the Island in the event of a no-deal Brexit on 29th March?

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

Health and Community Services has been working in partnership with the States of Jersey External Relations Brexit team, the U.K. Department of Health and Social Care and the U.K. Department for

Transport. All those bodies have developed a comprehensive Brexit contingency plan in the event of a day one no-deal Brexit. This covers medicines, supplies and patient travel. In respect of medicines and supplies, in December 2018 - just last month - the Department of Health and Social Care in the U.K. requested all the U.K. hospitals, and extended this to the Crown Dependencies, not to stockpile medicines or supplies to prevent shortages. My department has received written assurance that Crown Dependencies, including ourselves, will have equal access to the U.K. stockpile of medicines and supplies and that the supply chains will be maintained in their present format. In respect of transportation, our ports and harbours colleagues have been assured that medicines and medical supplies will be prioritised, along with food and fuel, as essential requirements. To date we are advised by the U.K. Department for Transport that they are not anticipating disruption to Channel Islands services, though contact still continues to maintain that assurance. In respect of patients and families travelling on and off the Island, the current emergency in-flight service will not be affected by Brexit because many patients travel on scheduled flights, for example, to Southampton for radiotherapy. In the event of scheduled flight disruption, if a flight is delayed or cancelled, the department's travel office would contact the U.K. hospital and the appointment would need to be rescheduled for later that day or on another day. In the unlikely event of significant flight disruption or lack of seat availability, patients will be prioritised as to their clinical need; priorities are either urgent or soon or routine. As a last resort, there will be the option of using the ferry and, therefore, patients travelling to the U.K. would travel the day before their procedure or their appointment. In appropriate cases, chartering an aircraft would be a final option. But I do know that much work is being done on preparing contingency plans and, of course, the hope is that in the event of a no-deal Brexit arrangements would be maintained and would be held as normal as quickly as possible.

3.13.1 Deputy K.G. Pamplin:

I thank the Minister for his answer. Given the co-operation agreement between our counterparts in Guernsey, have there been discussions about how the Islands could help each other through this, what could be, difficult transitional period?

The Deputy of St. Ouen:

Yes, all the discussions taking place with Whitehall departments have involved Guernsey too so there is a close working between the 2 Islands.

3.13.2 Deputy K.F. Morel:

The Minister mentioned assurances from the N.H.S. (National Health Service). Unfortunately, assurances are just pieces of paper. Could the Minister confirm whether or not his department is also looking at alternative supply routes when the situation occurs that these assurances fail to come through?

The Deputy of St. Ouen:

Yes, I know all has been considered. I think the difficulty is identifying alternative supply routes so, for example, medicines that might be manufactured on the Continent would normally come through to the U.K. first and have their English language badging or printing put on to them. It would not be appropriate for us to source medicines, say, in France or Germany which are labelled in another language but I know all options have been thoroughly considered. There has been some comprehensive work that has gone on. At the moment, Ministers are satisfied with the assurances so far received but we are continually monitoring the situation.

3.13.3 The Deputy of St. Mary:

I know from recent conversations I had with certain members of the medical profession that their concern is that their concerns have not been noted at ministerial or government level.

[12:15]

Could the Minister confirm that there is a forum or means of communication whereby such senior practitioners are able to contact the health authorities to stipulate what their principle concerns are in order that you might allay them? Thank you.

The Deputy of St. Ouen:

I have not been personally aware of any difficulties expressed by G.P.s but I do know also there have been meetings with G.P. representatives and if there are continuing concerns, perhaps the Deputy could contact me and we could ensure that there is a line of communication available to allay concerns.

3.13.4 Deputy K.G. Pamplin:

Given his comments, the Minister mentions about the transporting of patients, given the recent news that Air Rescue Channel Islands has launched a charitable organisation endeavouring to seek an air helicopter to transfer patients. Given the assurances available, I would like to hear the Minister's comments on this endeavour to provide this service, in my opinion, way overdue.

The Deputy of St. Ouen:

Yes, those seeing to operate that service have been in touch with me and the department and my Assistant Minister, Deputy Raymond, is taking a particular interest and is meeting with those persons and reporting back to myself and the department because it is certainly something worth considering and whether that would be an appropriate service for the Island.

3.14 Deputy M.R. Higgins of the Minister for Economic Development, Tourism, Sport and Culture regarding the provision of additional funding to the Jersey Reds Rugby Club: [OQ.13/2019]

Will the Minister advise whether any additional funding is planned to be provided to the Jersey Reds Rugby Club other than the additional funds already announced and whether there are any plans to have a full States sponsored rugby team and, if so, under what terms?

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

Senator Pallett will be taking this question.

Senator S.W. Pallett (Assistant Minister for Economic Development, Tourism, Sport and Culture - rapporteur):

Can I firstly thank the Deputy for his question? There is currently no agreement to provide additional government funding to Jersey Reds Rugby Football Club beyond the £150,000 sanctioned by the Minister for Treasury and Resources in November of last year. Neither are there any plans to have a full States sponsored rugby team and I can add or, for that matter, a full States sponsored team in any sport. Government is however actively engaged with Jersey Reds both to resolve their structural funding deficit and as part of a broader programme of work to develop a comprehensive sports facility strategy for the Island. Sustaining the club in its current form and ensuring it forms part of the wider consideration of the Island's sports facilities' needs will create scope to consider bold features that will benefit the full range of sporting activity in Jersey. This work will be overseen by a professional oversight group comprising Economic Development, Treasury and Infrastructure and I am hoping that that particular group will meet very shortly.

3.14.1 Deputy M.R. Higgins:

First of all, I would just like to say that I am delighted to hear that the Minister is looking at other sporting organisations as well, including the Jersey netball team who are struggling. I would ask the Minister if he would relook at question 30, the written answer to the question I asked on this subject.

I believe it is inaccurate and also it did not set out what conditions were attached to the funding. Can the Minister tell us if any conditions were attached to the loan that was given to the Jersey Reds, the £150,000?

Senator S.W. Pallett:

Just to be clear, it is not a loan. It is grant funding. It is to cover the shortfall in funding this year. Not all the shortfall in funding for this year but for the shortfall in funding to allow the Reds to carry on. I think the Deputy will be aware of the reasons behind some of that. Clearly, there is a funding deficit this year and being unable to cover that deficit would have meant the club folded and stopping and the potential benefit to the Island through all sorts of benefits, be it hospitality in the Island, flights and all the other things that go along with the Jersey Reds would have been lost immediately. So I think it was important that Government understood that and we reviewed it to really understand and get to the real bones of what the club were about and what they offered the Island. I think the economic benefit was large, estimated at over £2 million a year, so to have lost that would have been desperately hard I think on a lot of local businesses including hotels, restaurants and the like. In terms of what conditions were put to it; the one condition that I wanted to see was that it was part of a full sport strategy review. That is about to take place. We have done an initial review to look at the overarching needs of the Island, which will include netball. I met netball last week to make sure that they understood that they are right at the heart of that work. There are no other terms or conditions to that. It is what it is. It is a grant this year to help them through what is a very difficult period.

3.14.2 Deputy M.R. Higgins:

I would like to thank the Assistant Minister for his answer but I would ask him to revisit question 30 because I do believe it is inaccurate.

Senator S.W. Pallett:

No, sorry, I should have answered that. I will go back to the Minister and go back to officers just to check that everything on here is correct. I thought it was. If it is not, then I will get back to the Deputy and other States Members.

The Bailiff:

I take it you mean the answer is inaccurate and not your question?

Deputy M.R. Higgins:

You are correct, Sir. Thank you.

4. Questions to Ministers without notice - The Minister for Education

4.1 Senator K.L. Moore:

Would the Minister be able to inform the Assembly whether it is correct that families hosting international students for more than 28 days on behalf of J.C.G. are only able to do so because they are registering with the foster care service? If so, does this mean that foster services also are being diverted away from the care of Jersey's vulnerable children?

Senator T.A. Vallois (The Minister for Education):

I have been advised that the J.C.G. Foundation in fact, because they embarked on this particular project, liaised closely with all relevant Jersey agencies including the Safeguarding Partnership Board, Children's Services, Fostering and Adoption Services and Social Services. Yes, this is a private fostering arrangement because it is more than 28 days because that is the requirement underneath the law, which is the responsibility of the Minister for Health and Social Services. As I

understand it and the information I have been provided from the relevant services, particularly Children's Services, the impact would not be any greater than they currently see. Of course that depends on the numbers and they currently have 2 people under the pilot programme with this J.C.G. Foundation programme that they have running so there are currently only 2 but of course the more it increases, therefore it will impact on the workload of the relevant social workers that have to make the assessments.

4.1.1 Senator K.L. Moore:

Would the Minister not accept that 2 families who are hosting international students rather than children who require the care of a foster family are being taken out of this pool of important people that we struggle as an Island to find?

Senator T.A. Vallois:

I have been advised that it would not impact the fostering unless someone who had been thinking of being a foster carer did this instead. Yes, of course it would affect if those foster carers were intending on fostering children. It would affect the children currently in the Island. However, I understand the fostering provision at the moment is that that would not have been the case but of course I recognise the Senator's question and of course there will be a relevant impact should those numbers go up. It will affect the people that are willing to foster and able to foster depending on the people that they take into their own homes of their choice.

4.2 The Connétable of St. Helier:

Does the Minister share the concern and dismay of Members that so many children and their families and teaching staff are having their schedules disrupted, not only today but yesterday, as a result of Civil Service action? What steps is she taking as Minister to get all parties around the negotiating table so that this matter can be resolved as quickly as possible?

Senator T.A. Vallois:

Yes, of course I do share the concerns and of course we have seen recent ballots, particularly from teachers and the Head Teachers' Union as well suggesting there will be further strike action. Of course, we will not know the outcomes of that until they have provided us further information. In terms of my role as Minister for Education, I do not have a seat around the negotiating table. That is the responsibility of the States Employment Board officers. Under the law, their responsibility is to negotiate with the relevant parties. The Education Department of course work very closely with the unions with regards to partnership agreements and also workload reviews and trying to assist in the terms and conditions which our Director of Education is involved in but myself, as Minister for Education, has no responsibility for negotiating directly with the relevant parties.

4.2.1 The Connétable of St. Helier:

Can I ask a supplementary, Sir? Does the Minister share the view that has been put out by S.E.B. (States Employment Board) that there is simply no money to pay the increased salaries that are being sought or does she share my view that in fact the States can find money when there are things that it wants to spend money on?

The Bailiff:

Does the Minister have official responsibility for that, Connétable?

The Connétable of St. Helier:

No, I guess she does not, Sir. I was just trying to get her steer on it. **[Laughter]**

The Bailiff:

I think you have made your point. Deputy Ahier.

4.3 Deputy S.M. Ahier:

Will the Minister advise the Assembly what steps she will take to ensure that the Island's most vulnerable children, for example, children on the autistic spectrum, will not be subject to the insensible disruption to their lives by the current industrial action? Thank you.

Senator T.A. Vallois:

Yes, and I thank the Deputy for his question. Of course we will do as best that we can as an Education Department, and the teachers and the schools themselves very much recognise the importance of looking after our most vulnerable in our schools. Of course we have an inclusion agenda under the education team in the Education Department and, therefore, that requires proper resource and proper support for these children. We would not want to risk their well-being, safety and ability to learn so we have to take those risk assessments very seriously and we listen to the head teachers in terms of how they believe the appropriate way is to carry this forward, especially for the children at the heart of it.

4.4 Deputy K.G. Pamplin:

Will the Minister, to the best of her knowledge, provide an update of the new Les Quennevais School and also what lessons she would like to learn for the department for any future applications as to the one we saw?

Senator T.A. Vallois:

I understand that they are on or in front of schedule as expected in terms of building. It is coming along very well and we are on target to meet the expected time for the children to be moved into the school. With regards to lessons being learnt, of course I captured the end part of the particular application and the way that it was negotiated, *et cetera*, but of course that sits with Property Holdings. I am assuming that the Deputy is asking me about the way that it was handled and the fact that we ended up with compulsory purchase. Well, it did not end up in compulsory purchase. There was an agreed settlement before it went to compulsory purchase but of course there were 5 parties involved, there was a lot of discussion and there was a lot of negotiation, as I understand it. I was not in the room at the time. Therefore, it came to a halt because one of the parties felt that the money that was being offered was inappropriate. So I suppose the lessons that we can learn is probably better and more lenient communication, understanding and recognising of course we all have the Island Plan coming up in the States Assembly this term and there may be opportunities for us to look at how we deal with future-proofing school buildings or even any States buildings within that plan coming forward.

4.5 Deputy R.J. Ward:

Does the Minister believe that performance-related pay for teachers has any place in Jersey's education system?

Senator T.A. Vallois:

I personally do not believe that performance-related pay does have a base with regards to teaching because of course there are assessment frameworks. It is a vocation, teaching. They do it because they believe in it. They do it because the satisfaction of seeing those children going through the schools is the ultimate aim of why they do the job in the first place. Performance-related pay, in my view, only adds more stress, more concerns and more problems, I believe, to our education system in addition to the newly arrived assessment framework that the education team are putting in place.

4.6 The Connétable of St. Brelade:

Would the Minister advise Members when she intends to upgrade the sporting facilities at Mont Nicolle School as I am advised they are now barely fit for purpose?

[12:30]

Senator T.A. Vallois:

I will confess I am not aware of this particular issue but I am happy to go away, have a conversation with Jersey Property Holdings and the rest of the Education Department, and provide the whole of the States Assembly with an update on where we are and what the position is especially if we decide bringing it to fruition through the capital programme and requiring extra funding with regards to that.

Information subsequently provided by the Minister for Education:

The query regarding the state of sporting facilities at Mont Nicolle relates directly to the school field only.

The field lies adjacent to a woodland area and despite appropriate fencing it is affected by wildlife i.e. rabbit holes and burrowing moles. This results in an uneven surface which can affect sporting events such as Sports Day or football training. As a natural field it is also affected during the winter months in particular by drainage problems and tends to be used infrequently at this time of year.

The impact is as follows:

- Football teams currently train at Les Ormes, but this is closing
- Playground PE sessions are currently finishing slightly earlier than they would normally because pupils cannot access the field as part of the school pick up traffic management plan
- Sports days have to be carefully risk assessed and the field scrutinised before proceeding

Departmental Action:

- Officers from Jersey Property Holdings, Education and wider sporting agencies have been asked to visit the school to make them aware of the situation and to obtain advice
- The school's Parent Teacher Association is actively trying to support the school with fundraising to ensure Physical Education remains a school priority
- The Headteacher will increase engagement with the grounds maintenance company to explore methods of improving the quality of the field
- The Headteacher and PTA will explore alternatives to maintain their football training in light of the closure of Les Ormes
- Head of Education Facilities Management visited the site and met with the contractor Monday 21/01/2019

Following the site visit, the Head of Facilities Management advises:

- Short-term – during the Easter holidays the external contractors are going to work on the pitch as per the specification ensuring grass maintenance, scarification, de-compaction, aeration, repair, seeding and turfing if required.
- Medium-term – price to remove the bamboo plantation and improve the banking down from the school to the pitch, remove seven trees and block off the fencing areas where the rabbits are accessing the field.
- Long-term – develop a business case for the installation of a 3G Astro-turf pitch, extend the existing fencing and improve safeguarding.

4.7 Deputy M.R. Higgins:

Following on from the Assistant Minister for Treasury and Resources' answer regarding the J.C.G. Foundation grant or loan, or whatever it was, can the Minister tell me whether she was involved in the discussions of that particular grant and whether she was also consulted about other education priorities? In other words, do you have a say in determining which priorities are important for education?

Senator T.A. Vallois:

In August, the process was changed for applying to what I call the E.G.B.G. fund but it is economic growth, productivity blah, blah, blah, blah fund. Sorry, I do not know the exact wording but economic growth fund, we will call it, and so that all changed. The Minister for Treasury and Resources changed that in a Ministerial Decision on 22nd August but I was aware of the J.C.G. bid that was coming forward because the process before that was it had to go through the relevant Minister and then on to Treasury. The process changed in August and I was not aware of the bids that the department put forward, the newly constituted department for Children, Young People, Education and Skills, and I had to request the information directly from Treasury just before Christmas. I understand that priorities were put in place by the senior leadership team.

4.8 Deputy K.F. Morel:

Staying with foster care and the J.C.G. grant, is the Minister at all concerned, given that she has said that the already stretched Jersey Foster Care Service will be affected should this scheme that J.C.G. Foundation wants to run is successful? Is the Minister at all concerned about the effects on local children of this decision?

Senator T.A. Vallois:

Yes, of course you are going to be concerned if there is going to be a huge impact with regards to this but of course the Minister for Children and myself were discussing this only in the last week or so. There needs to be a discussion about going forward if we are going to have these kinds of programmes in the Island about what that provision looks like, what it means and where the assessments take place and also we recognise the due pressure that Children's Services are already under in terms of their workloads. I do recognise it and I do understand the concerns, and I am going to be keeping a very close watching eye over this particular programme and how it develops, particularly with regards to how the Children's Law is being reviewed and the Education Law will be reviewed. These discussions will be, I think, highlighted in terms of how we take it forward and ensure that we have the appropriate resources and support if we are going to carry on allowing these kinds of programmes to take place if we are going to have some form of fostering system. We need to recognise that the ultimate aim is ensuring the safety and having safeguarding for those children within our Island because once they are here, of course we have responsibility to ensure they are safe and protected.

4.9 Deputy M. Tadier:

Does the Minister with responsibility for a big staff presence in her own department believe that the responsibility for any disruption caused by industrial action or strike action must fully lie at the hands of the States Employment Board because they have failed to negotiate in a polite and proper manner with the unions and that the offer that they have put on the table is derisory to the workers both in her department and more generally?

Senator T.A. Vallois:

Yes, I recognise the staff presence in Education is the second largest out of the departments. With regards to responsibility and falling at the hands of S.E.B. with regards to negotiations, I think it has been stated many times in the Assembly that it is not S.E.B. that directly negotiates with the unions.

S.E.B. has met with the unions to discuss the pay offer and of course everybody knows that I am a former chair of the States Employment Board. In terms of the responsibility of handling, in terms of the industrial action, how much money we have and pay awards, I think this all falls down to ultimately the Government as a whole because we need to recognise the Medium Term Financial Plan and it is a political will in terms of the monies and how we take that forward. I would not just say it is the States Employment Board because it has to go and be noted through Government at the same time.

4.10 Deputy J.H. Perchard:

Does the Minister agree that given the significant role of the J.C.G. Foundation in the development of the pilot programme that it is in fact unlikely, if not impossible, for other States schools without such a foundation and dedicated staff working for it to indeed replicate this programme which was indeed given as one of the reasons for the rationale for awarding the money in the first place?

Senator T.A. Vallois:

Yes, I would agree there was not a level playing field because of course J.C.G. have the Foundation and other schools do not have the particular Foundation that apply to it. However, I would hope and I would expect that our department would work closely with the schools in the right manner to ensure that the department is providing the appropriate bidding to the central Treasury team if further funding is needed over and above the funding that is established for the Education Department. There were many bids made by the department. However, the J.C.G. bid has been approved and as I understand it, from the Treasury point of view, that there are still bids being considered.

The Bailiff:

That brings question time for this Minister to an end. As Members will know, we have 15 minutes for the next question period. Unless a Member wishes to propose otherwise, I intend to start now and continue until we finish so that will take us through to 12.54 also.

5. Questions to Ministers without notice - The Minister for Economic Development, Tourism, Sport and Culture

5.1 Deputy R.J. Ward:

Given that we can hear protests from public servants outside this Chamber at the moment, can the Minister state the value of our public services for the wider economic development of this Island by making it a good place to live and voice his support for those taking action?

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

For the avoidance of doubt, I - as I am sure most of us do - hold our public sector in the highest regard and their contribution to the Island is immeasurable. Without them, we simply could not operate. Having said that, I think I support the action of a limited number of public sector workers. Having said that, I personally think that our public sector, generally speaking, are fairly paid and we have now agreed to restructure the public sector for the medium to long term, which I hope will provide better and more secure working conditions, a better working environment, more opportunity for public sector workers and long-term security in the shape of a good pension provision. I am reluctant to comment on the negotiating positions. That is a job for the States Employment Board which is now being led by the Chief Minister.

5.2 Deputy S.M. Ahier:

In light of the recent success of Christmas Sunday trading, will the Minister consider allowing Sunday trading on a permanent basis? Thank you.

Senator L.J. Farnham:

Well, it is a matter for the Assembly of course but I thank the Deputy for his question. Sunday trading proved important in what was a challenging December for retailers although it ended up in not too bad a position and it was of course affected in early December by poor weather conditions but the retailers made up for that closer to Christmas. Looking on a more longer and permanent basis, I have been working with Members and Scrutiny to provide a very useful report and some recommendations and the Chamber of Commerce, Jersey Retail Association and retailers to produce a new retail strategy. I expect the strategy will make provision for allowing all shops to open, should they desire, on a Sunday but of course that is a matter for the Assembly and it is likely I will be bringing the proposition in due course.

5.3 The Connétable of St. Brelade:

With regard to the Order 136 of 2018 promulgated today by his department, would the Minister agree that a 9.4 per cent increase in shipping registration fees is completely disproportionate and unjustified and advise what additional services members of the public can expect to receive?

Senator L.J. Farnham:

I will have to seek further information on that and come back to the Constable.

5.4 The Connétable of St. Helier:

The Minister has already alluded to the successful Christmas we had in Jersey and would he join me in congratulating all those who were involved in the Christmas markets especially Genuine Jersey, the Town Centre Management Team and also Jersey Business? Could he give us more details about when his retail strategy will be appearing because of course it is a challenging time for retailers in Jersey and they need to know when the support will appear?

Senator L.J. Farnham:

Yes, I would like to congratulate all involved with helping to make Christmas as successful as possible for our local economy especially but not just the Parish of St. Helier and the Constable himself for all the support. The retail strategy is being put together with the retailers themselves and the various businesses and we are all very keen to produce something as soon as possible. Having said that, we want to make sure that the strategy is absolutely right. We are considering the 31 recommendations. I am looking for assistance from retailers at this moment. I would like to reassure the Connétable and the Assembly that we are going to produce it as quickly as possible without compromising the content of the strategy.

5.5 Deputy K.G. Pamplin:

Would the Minister update us with any work or future work that his department are doing alongside Jersey Sport and others in the promoting of sport and well-being in regard to mental health?

Senator L.J. Farnham:

I think the modern approach to this and evidence has shown beyond doubt the benefits of sport to all aspects of the community and for our health and our mental health. I cannot give an exact answer to that question because my colleague, Senator Pallett, leads on that but I know important work is being done by Jersey Sport along those lines and perhaps he might like to direct that question to Senator Pallett in due course or perhaps we can separately. I want to reiterate that Senator Pallett and myself both see this as very important. The sport, health and community benefits we can all obtain from working together are essential and very high on our agenda.

5.6 Deputy K.F. Morel:

I was just wondering if the Minister could let us know what he is doing to counteract the increase in the cost of living that we see in the Island. I believe he is talking about the productivity plan and whether that is part of it, when we might see that. Many thanks.

Senator L.J. Farnham:

The Common Strategic Policy advocates reversing recent declines in productivity by embracing the opportunities, particularly in other areas of commerce - tourism, retail, agriculture - while at the same time of course protecting and continuing to develop Jersey's financial and business services sector. Of course productivity declines have really been led by the reduction of profitability in the banking sector outside of the financial services sector. Productivity, while not growing as we would like it to is certainly not decreasing at the same rate, and in many areas productivity has held up quite well. Of course it is difficult for our small economy not to be affected by larger economic circumstances around the world. The new development of the economic framework plan is underway and the object of that plan is to deliver a list of recommended priority projects and research-based evidence to inform the Government and the States Assembly's new economic policy, the heart of which will be improving productivity.

5.7 Deputy L.M.C. Doublet:

Does the Minister agree that improving women's engagement in the workforce would have the effect of improving productivity? If he does agree, how would he further his aim?

[12:45]

Senator L.J. Farnham:

While an advocate and a supporter of the work that Members are doing on promoting the impact of women on the community and the economy, I would like to think that all humans play an important part in delivering productivity gains to the economy.

5.8 Deputy J.M. Maçon:

When the Minister made his bid for the Minister for Economic Development last time he announced the intention to launch a red tape review in order to reduce barriers on businesses. I am not entirely sure we have seen a firm conclusion to that review and I wonder perhaps whether in this term the Minister will redouble his efforts in order to produce and conclude that particular review in order to see other work flows and in order to increase like productivity in the Island. Will the Minister commit to producing that review?

Senator L.J. Farnham:

Of course we all want to see a reduction in red tape and administration. The less we all need to do of it the better, as far as I am concerned. I think there has been progress with the onset of technology and the embracing by the States and other sections of the economy. Online services have meant that form-filling has become less onerous in certain circumstances. In actual fact in a lot of business processes the States are actively working to reduce the administrative burden. But, having said that, yes, my department will continue to undertake to play its part to continue that process. Of course our efforts are not helped by having to subscribe to E.U. essential regulations such as G.D.P.R. (General Data Protection Regulation) and in this modern world there will always be the onus on businesses and individuals to ensure they are managing their data and their administration properly.

5.9 Deputy M.R. Higgins:

Following the States neglect of Fort Regent and all the facilities that are there, can the Minister tell us what proposals he and his Assistant Minister are going to bring forward to reverse the neglect and the decline and make it again the jewel that it was in St. Helier?

Senator L.J. Farnham:

I am very pleased to report that the Assistant Minister and myself, the Chief Minister, the Minister for Treasury and Resources, the Minister for Infrastructure and the Minister for the Environment met with senior officers late last week and had what I felt was one of the most productive and encouraging meetings on the future of the Fort for many, many years. Notwithstanding, Senator Pallett has been driving this for some period of time playing an important part I hope in continuing with its progress. So officers have been given a direction of travel now and I very much hope that the Chief Minister and Senator Pallett will be able to provide Members with an update in short order. It is too much information for me to go into now, much as I would like to explain some of the concept that has been planned, but I can just assure Members that I believe that progress is finally starting to be made.

5.10 Senator K.L. Moore:

Given that creating a sustainable, vibrant economy and a skilled local workforce for the future is a key priority of this Council of Ministers, does it concern the Minister that following a successful recruitment process teachers from outside the Island are turning down jobs here when they, upon further learning of their pay package and take consideration of the impact that will have on their quality of life, turn down the roles due to the fact that they consider their quality life would deteriorate if they were to take up the role in Jersey?

Senator L.J. Farnham:

I am particularly well informed on this matter, given the fact that my daughter and her partner are both teachers. They lecture me regularly on the matter. I will say that for new teachers I think the starting pay - although there has been a reduction - is quite generous compared to the U.K. Over and above that, as another Member mentioned earlier, teaching is a vocation and speaking to teachers from all generations - old and young - teaching has changed. It is a completely different workplace than it was, I think there is a lot more administration and a lot more onus on the teacher to do other things and I think that might be causing more stress and problems to teachers than the remuneration. As I have said before, and I do not know the full remuneration from starting teachers to Head, but I generally believe that the majority - with some exceptions of public sector workers - are fairly paid.

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

I am sure we were all in some ways sad to see Flybe go - or Fly Maybe which it is very often referred to as locally - and the demise of the company; but very welcome to the fact that they were taken over by a consortium of companies. Obviously with Brexit supposedly coming the air links are so vital to this Island. It was reported as a budget airline, Flybe, and my experience with the company over the years is that it was far from being a budget company; in fact it felt like extortion when you were dealing with the sales desk ...

The Bailiff:

Deputy, I have about one minute so you had better be quick.

Deputy G.J. Truscott:

I will quickly get it in then, Sir. Has the Minister been in contact with the new entity and will he or can he have some kind of influence over the fare structure that they charge Islanders?

Senator L.J. Farnham:

I have personally been in touch with the potential new owners and I must say that this is a proposal, it has not been finalised yet. Ports of Jersey are working very closely with all partners. I would be reluctant to interfere with the pricing of private companies but, having said that - and I will just speak up for Flybe - whoever takes over will be incredibly important, they are the third biggest carrier for Jersey, carrying over 20 per cent of our passengers. I see opportunity ...

The Bailiff:

Right, you cannot speak up for them anymore, Minister, because time is now at an end.

Information subsequently provided by the Minister for Economic Development, Tourism, Sport and Culture:

The shipping registration fees were increased following a submission from Ports of Jersey Limited in November of last year. Ports observed that the relevant fees were last increased in January 2016. They quoted a Retail Prices Index increase of 9.4 per cent in the period from January 2016 to the latest calculation point as at September 2018. They also cited a cost comparison with other Red Ensign Group competitor registries and asserted that their corresponding fees were either competitive or, in most cases, lower – to the extent that Jersey remained cheaper than the BVI, Cayman Islands, and the Isle of Man, and with comparable costs to Guernsey and the UK Ships' Registry. I accepted the submission and the Order was drafted accordingly.

LUNCHEON ADJOURNMENT PROPOSED

Senator I.J. Gorst:

May I call the adjournment, and before I do may I just take this opportunity to offer an apology. You may recall at the last States sitting during a debate about the curtailment of lodging time, I used an illustration about parents and children and parents managing children's expectations about Christmas presents. It has been communicated to me that some people have taken offence and felt that I indicated that they were children. I had no intention of doing so during that debate and I offer my apologies to them. Therefore, I now call the adjournment.

The Bailiff:

The States will now stand adjourned until 2.15 p.m. this afternoon.

[12:53]

LUNCHEON ADJOURNMENT

[14:19]

The Bailiff:

Before we resume on the Order Paper I have been advised that shortly before Christmas Mr. Ron Gray died. He was Deputy Greffier for many years, Greffier I think for just over a year, in the early 1990s. I remember him well. He was a very thoughtful and consistent man who took pride in maintaining high standards of clerking in the States Greffe. He was a staunch Francophile who enjoyed promoting Jersey within the Association Internationale des Parlementaires de Langue Française, now the A.P.F., from its very beginning, from its inception. He had the reputation among Members of always being available to assist Members with their work, indeed a reputation that the Greffe maintains today, and I bring to Members attention that a colleague for many years - I think he was 19 years or so in the Greffe - passed away just before Christmas. We would wish his family our condolences.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Bailiff:

We are now returning to the Order Paper. There is a statement to be made by the Minister for External Relations.

6. The Minister for External Relations - statement regarding preparations for Brexit

6.1 Senator I.J. Gorst (The Minister for External Relations):

A kindly colleague has just suggested we might like to take it as read but I will read it out. Today we find ourselves at a critical juncture in the progress of the United Kingdom's preparation before Brexit. As every Member will know, this evening the U.K. Parliament will vote on whether to accept the finalised E.U. withdrawal agreement, accompanied by a political declaration on the future relationship between the United Kingdom and the European Union. It is, therefore, appropriate that I take this opportunity to update the Assembly on the work of the Ministry of External Relations and the wider Government of Jersey to prepare the Island for impacts of Brexit. Today I present report R.5 of this year to the Assembly, setting out the political developments from the referendum to date, the steps taken by the Government to protect and promote Jersey's interest during the negotiations, and the implications for Jersey over the coming weeks and months. It will also provide an update on the Island's Brexit readiness preparations in the event of a no-deal scenario occurring on 29th March this year. This is the fifth formal report to the Assembly since the referendum in June 2016 and meets our ongoing commitment to update Members. I am not under any illusions about the complexities of the present debate over the meaningful vote within the U.K. Parliament and the potential ramifications for Jersey. If the meaningful vote is lost by the U.K. Government the next steps by either the Government or parliamentarians are far from clear. If the vote is won the need for implementing legislation in Parliament means that the deal negotiated by the Prime Minister is not yet secured. In either event, therefore, Jersey must continue to prepare itself for a range of scenarios including a hard Brexit, a negotiated deal and a potential general election or second referendum. The Prime Minister herself has said the likelihood has increased either of no Brexit or no-deal with the European Union. It is prudent, therefore, that the Government of Jersey's Brexit planning has been developed on the basis of a day one no-deal or hard Brexit scenario, since the U.K. referendum on E.U. membership took place in June 2016. We are aware of the potential risk to the Island presented by a hard Brexit, and have engaged in contingency planning to ensure that all government departments are prepared for and able to manage those risks, and businesses and the public have the information they need through the provision of technical advice. In March 2018 the previous States Assembly passed the European Union (Repeal and Amendment) (Jersey) Law. That legislation ensures that this Assembly has the ability to make necessary changes to the Island's E.U. related legislation either through regulation or by delegating power to Ministers to make orders. It guarantees that even in the event of a hard Brexit the Island can make prompt legislative changes where necessary to ensure the continued operability of our laws. At the same time we have recognised the importance of continuing to work closely with the U.K. Government to prepare for withdrawal under a range of negotiated scenarios and to seek a positive outcome for our future relationship with the E.U. This has included regular ministerial meetings between the ministerial representatives of the Crown Dependencies, and Robin Walker M.P. (Member of Parliament), Minister at the Department for Exiting the European Union, as well as engagement at the British-Irish Council and other political and diplomatic meetings. I have also met with Chris Heaton-Harris, who has been given ministerial responsibility within D.Ex.E.U. (Department for Exiting the European Union) for day one no-deal preparations. Without exception the Ministers I have met have made clear their commitment to representing the interests of Jersey and the other Crown Dependencies in the forthcoming negotiations. That commitment was confirmed in writing by Lord Keen, Minister of State for Justice with responsibilities for the Crown Dependencies in November of last year. We have also continued our direct engagement with E.U. institutions and member states, recently meeting with the French, Romanian and Latvian ambassadors to the E.U. in Brussels, as well as the French, Polish, German and Italian ambassadors in London within the last 2 months. I will be travelling to Paris and Brussels next week to meet with key stakeholders and interlocutors. Our Brexit programme has expanded and now covers work across 6 core work streams, as well as a seventh contingency focused work stream. This work continues through regular roundtable meetings with United Kingdom departments, indeed contact with the U.K. on these and wider policy areas

impacted by Brexit is occurring on a more than daily basis. On customs, importantly, we have successfully concluded a Jersey/U.K. customs arrangement, building on our long-established position under the Royal Charters and providing a modern relationship to guarantee the seamless flow of trade and goods, including essential supplies, between Jersey and the U.K. from Brexit day. On immigration we have put in place the Jersey E.U. settlement scheme to meet the Government of Jersey's commitment to ensuring the rights of E.U. citizens living in Jersey after Brexit day. Yesterday lunchtime I was pleased to host a lunch alongside the Chief Minister for the members of the Island's honorary consular corps to provide them with an update on that scheme. On transport we have made legislative provision to enable the United Nations Vienna Convention on Motor Traffic to be extended to Jersey. This is necessary to ensure that after Brexit day Jersey residents can continue to drive their own vehicles and hire cars in the U.K., as well as to meet international road worthiness standards. In November the Assembly passed the new Sanctions and Asset Freezing Law, providing for the proper functioning of our sanctions regime post-Brexit and ensuring that we continue to robustly and comprehensively meet our international obligations. In the months ahead the States Assembly will be required to manage a significant volume of legislation as a result of Brexit, and discussions have taken place to ensure that Scrutiny are aware of the expected flow of legislation. Much of this is dependent of course on the agreement the U.K. reaches with the E.U. We will continue to work with Scrutiny and Members to ensure that they receive regular briefings and are engaged early regarding the preparation of draft legislation. I also wish to emphasise the importance of Jersey's continued engagement with priority global markets outside of the E.U., which is a critical component of the Island's overall response to Brexit. The Ministry of External Relations will continue to drive a cross-jurisdictional approach to delivering the Government of Jersey's global market strategy. We will continue to build long-term relationships with priority partners and to expand and upgrade Jersey's network of international agreements. As I said at the outset, while the Government of Jersey continues to believe that a negotiated outcome on the withdrawal of the U.K. from the E.U. is in the interests of all parties, we have nevertheless planned on the basis of a day one no-deal or hard Brexit. Preparation for a no-deal scenario intensified following the publication of the U.K. Government White Paper on the future relationship between the United Kingdom and the European Union on 12th July last year. This work, co-ordinated by the Brexit unit under the joint Channel Islands Emergency Planning Office, has involved an assessment and peer review of departmental risks, resources, objectives and governance. By the end of 2018 all government departments had prepared individual Brexit readiness plans, setting out departmental objectives in the event of a day one no-deal, risks and mitigations and resource requirements agreed and peer reviewed by me. The individual Brexit readiness plans have informed the development of an overall Government of Jersey contingency plan aligned with similar U.K. Government contingency preparations, drawing the highest impact risks from departmental submissions, setting out proposed mitigations and threats to mitigating actions.

[14:30]

Key risks for mitigation include those relating to supply chain disruption, impacts on our critical national infrastructure, and the potential loss of information sharing with the E.U. This document has recently been shared with the U.K. Government to ensure it can inform both the ongoing contingency preparations across the U.K. Government, and our own extensive discussions with individual departments across Whitehall, U.K. local resilience forums, transport, retail and wholesale organisations and other Channel Islands partners. The Government of Jersey is working closely with the U.K. Government to ensure that our plans align and that where there are U.K. dependencies, particularly those in relation to our supply chain, these are taken into account. In response to the U.K. Government's own contingency preparations for and publications regarding day one no-deal, the Government of Jersey has now published over 100 technical notices since the U.K. summer parliamentary recess advising businesses and individuals on contingency preparations. As part of our programme of engagement on Brexit readiness planning with key stakeholders, a Brexit business

toolkit has been co-produced with the Jersey Chamber of Commerce and Jersey Business to ensure businesses can be ready for Brexit. Tomorrow officials from across Government will undertake a table top exercise at Mount Bingham to test our key planning assumptions and to undertake a simulated no-deal scenario. This exercise takes place during our week of 'Ready for Brexit' stakeholder engagement, which has been designed to share our work across the public and Island industries. I would like to offer my sincere thanks to the officials working within the Ministry of External Relations and the Government of Jersey for their continued diligence, effort and commitment in undertaking the work necessary to prepare Jersey for Brexit. Their work contributes to the stability that is a hallmark of Jersey and that makes the Island an increasingly attractive place in which to live, to work, and to invest. As I have said before, I cannot guarantee that the Island will be unaffected by Brexit, but as set out in my report I do believe that our ongoing engagement with the U.K., coupled with our internal contingency planning has placed Jersey in a strong position to manage the next stage of Brexit, whether that results in a negotiated or a hard exit from the E.U., and to take advantage of the opportunities that the future relationship proposals allow.

The Bailiff:

Thank you very much. We now have 15 minutes for questions to the Minister.

Deputy K.C. Lewis:

Just a point of clarification? I believe it was just a slip of the tongue on behalf of the Minister but the first paragraph on page 3 it should read, regarding the Vienna convention: "This is necessary to ensure that after Brexit day Jersey residents can continue to drive their own vehicles and hire cars in the European Union." I believe the Minister said "U.K." but in error.

The Bailiff:

I see, well the statement says the E.U. Any questions for the Minister?

6.1.1 Deputy K.F. Morel:

I would like to thank the Minister for his comprehensive statement, for the work that is going on this week, 'Ready for Brexit' week. I just wanted to ask, it is a question that Deputy Ward has brought up a number of times, but given that European Union citizens living in Jersey have had no say - as have no Islanders - in this matter, does the Minister think it is appropriate that we charge European Union citizens for their settled status on a cost recovery basis? Given that this is not like me going to the dump perhaps and having to pay for something I choose to do; this is something that these E.U. citizens have no choice but to do. Would the Minister like to explain whether he agrees that cost recovery is the right basis, or that in order to achieve settled status we should provide it to those free of charge who apply for it?

Senator I.J. Gorst:

Might I firstly thank the Minister for Infrastructure and, as you kindly pointed out, the official record, which will be the written statement, is correct. I misread, for which I apologise. I am grateful to Deputy Morel's intervention because he in his Scrutiny role has worked very closely with my officials and provided challenging questions about our preparedness and all of the work we are doing, and I appreciate that. There is no doubt that charging for registration of the Jersey E.U. settled status regime has been a matter of conversation and some may have seen the local media where some of the honorary consuls were yesterday saying that some of their citizens felt slightly aggrieved by it, and we are aware of that. We had a long discussion at the Brexit ministerial group and the majority - it was only a majority, it was not unanimous - felt that requesting the Minister for Home Affairs, whose decision it is... was that a cost recovery was a reasonable basis; it is about half of what the United Kingdom is charging. Bearing in mind that immigration visas, permits, those immigration documents have historically been user pays and we did not want to set any other precedent in that regard.

6.1.2 Deputy K.F. Morel:

Sorry, if I may. My concern here is just that some of these people have lived here longer than I have been alive and to talk about immigration to me seems slightly wrong, for want of a better word.

Senator I.J. Gorst:

I do understand the concerns, and perhaps his colleague to his left is going to ask a similar question. We did seek advice from officials around what was possible in carving out perhaps age restrictions, *et cetera*, but we ultimately decided - as I said, by majority, not unanimously - that cost recovery was reasonable. But I recognise that there is still some disquiet by some non-British citizens living in Jersey.

6.1.3 Deputy R.J. Ward:

In the U.K. the charge is £65 and what is happening is N.H.S. (National Health Service) Trust is a significant number of them are saying that they will pay that charge for their workers because of the essential nature of those workers to the running of N.H.S. Trust in the U.K. Has there been any consideration to that happening here for our essential workers? Has there been any piloting scheme to see the possible implications of this charge on the well-being of our lower income families on the Island?

Senator I.J. Gorst:

I am not aware that any individual departments have undertaken that work. They are of course free to do so within their departmental budgets. I have to be open with Members and say that the United Kingdom is putting in place this charge. We were very careful in not wishing to make Jersey perhaps a soft option for E.U. nationals coming here and availing themselves of a scheme that was cost free. So it was very much a balanced decision, and I do understand how some Members may feel that even that balanced decision was an incorrect decision. I think it was a reasonable decision, mitigating as far as possible covering cost. But certainly it is a message I think at the crux of the Deputy's question, which I will take up with other departments and ask Ministers to consider.

6.1.4 Deputy R.J. Ward:

May I ask for clarification on something else? There is a pre-settlement scheme which would then become a re-registration for the settlement scheme, and I would imagine that both of them would incur a charge. So would there be a charge for the settlement scheme after the pre-settlement scheme?

Senator I.J. Gorst:

No, there is just one charge.

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

On a similar theme, the Minister has told us that he met with the honorary consuls yesterday; my question is who is responsible for making E.U. citizens aware of their responsibility to sign up to the scheme? What are the consequences of them not doing so?

Senator I.J. Gorst:

My department is helping to co-ordinate that. I appreciate that Members will not yet have seen some of the leaflets and documents that have been published by the Customs and Immigration Department; they have been published in many different European languages. Yesterday was the second event and conversation that we have had with the honorary consuls around this particular scheme; they have been extremely useful. They have behaved as critical friends and I think that together the Ministry of External Relations, the Ministry of Home Affairs, Customs and Immigration, together with the honorary consuls and social media and the internet, I think we are going to make good progress into reaching all of those that needed to be reached. We are mirroring the United Kingdom's

scheme in this regard, because there is a reciprocal nature of time spent here and time spent in the U.K. That is an extremely important element of this scheme. E.U. nationals with non-British passports do need to register under this scheme. While Customs and Immigration Department is well-equipped, well-prepared for the introduction of this scheme, individuals who have individual concerns... their door is always open and they have reiterated that to the honorary consuls again yesterday. But E.U. member citizens do need to register for the scheme if they want to have that settled status and have their future in Jersey put beyond doubt.

The Bailiff:

Minister, we have got 4 more Members wanting to ask you questions, and 5 minutes, so will you please try and keep your answers quite crisp.

The Connétable of St. Lawrence:

My question also covered the consequences, if any, of them not signing up to this. Would they be deported, for instance?

Senator I.J. Gorst:

That is an extreme eventuality and that is why we are doing everything we can to ensure that all E.U. citizens know about the scheme and know that it is necessary for them to register.

The Bailiff:

I will allow all Members to ask their questions; no more supplementaries.

6.1.6 The Connétable of St. Brelade:

Is the Minister in a position to indicate the status of negotiations regarding the exportation of Jersey shellfish to France?

Senator I.J. Gorst:

The Constable will know that this is a difficult area dependent on what negotiated deal the United Kingdom leaves the E.U. on, which is why as a Government we have supported the Prime Minister's withdrawal agreement and the transition period because it still allows for customs arrangements to be in place while the future economic relationship is negotiated. The difficulty is if there is no deal on day one and the U.K. crashes out with any customs arrangement with the European Union, that means that shellfish will have to be exported into Europe at what is known at a border inspection point. They are not the usual ports of entry for Jersey shellfish. I am mindful that these questions are quite technical in nature; I would be happy to take many more questions for the rest of the afternoon, I know Members would not wish that. So that is an ongoing conversation that we are having bilaterally as well as with the British Government.

6.1.7 Senator S.W. Pallett:

I think we would all like to thank Senator Gorst, his officers, and not just officers within his own department but officers within other departments who offer their work. **[Approbation]** But without being too specific about one group, one of the longest standing and certainly extremely valuable contributors to Island life are our Portuguese community and our Madeiran community.

[14:45]

I would just note in one of the paragraphs that that is not mentioned there. Could he give me some reassurance that both those communities and their honorary consuls have been fully consulted, and the member states as well?

Senator I.J. Gorst:

Yes, they have, and they were at the honorary consul's lunch yesterday. One of those groups were at the previous meeting as well. They are incredibly valuable members; in some respects singling them out seems the wrong thing to do because I see them as part of the modern Jersey community. We want E.U. nationals to stay and be part of our future.

6.1.8 Deputy G.J. Truscott:

I too would like to congratulate the Minister. He set this piece of work in train in the last Assembly, Brexit, and preparing for virtually all eventualities. I think he took the absolute right track which was think of the worst-case scenario, and I would like to thank him and his officers again for the work that they have done. It has been quite outstanding and I could not think of a better Minister for doing this piece of work on the world stage because he really has represented Jersey in a very admirable way. **[Approbation]** You have thought about all the possible worst scenarios; can I give you a scenario, a run on the pound, the stock markets crashing, inflation rampant, interest rates going up? Do you think and agree that it has been absolutely appropriate and sensible and prudent to tuck the amount of money that we have into the rainy-day fund?

Senator I.J. Gorst:

Our forbearers, in setting up the rainy-day fund or Jersey's sovereign wealth fund, were extremely wise and prudent and it is behove upon us to continue that wisdom and that prudence into the future. There are any number of doomsday scenarios; some of which we can rightly plan for, some of which I just tend to think are simply the extremes of political debate and people perhaps who should know better, which is why in the United Kingdom they are now finding it difficult to make a decision. But people in my department and in the financial services section of my department are talking with the Jersey Financial Services Commission, they are talking to their counterparts in the United Kingdom as well, thinking about these issues.

The Bailiff:

That brings the 15 minutes to an end in relation to that statement.

Senator S.Y. Mézec:

Sir, I did see at least one other Member who had his light on. Could I make the proposition that given this is such an important issue for the Island constitutionally that questions to the Minister be extended so those Members who do want to ask further questions have the opportunity?

The Bailiff:

Are Members content to extend it for 5 minutes? Let us look at 5 minutes for the time being.

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

What I would like to clarify, and 2 of my colleagues have already mentioned this and I find this a bit unusual, that somebody is going to have to take residential status when in actual fact they could have bought a property here and they are living here long term. Surely there should be some way that we can look at doing it a little bit differently because from my perspective I think that is quite an insult really for somebody that has lived in Jersey for in excess of 50, 60 years to suddenly find themselves having to go along and say: "Please can I have residential status?" I am not quite sure that really fits in with the way I think we should run, so from my perspective I would like to ask the Minister just to ask this question. Surely there must be a better way that we can do this if we are going to ask for residential status, because we do have housing laws so you have to live here for a certain period of time to be able to buy a house. How can we then say to somebody: "By the way, you have got to register" because if they do not, what are we going to do?

Senator I.J. Gorst:

As you know, we follow the United Kingdom largely when it comes to immigration rules. There are some perhaps unintended consequences of the vote in the United Kingdom to leave the European Union; one of those is the ending of free movement. A lot of the debate in the U.K. was about ending that freedom. The Minister for Home Affairs, together with his officials in Customs and Immigration, have endeavoured to deliver a very straightforward application process which is online. Any Member who has not seen that application process, I suggest they speak to the Minister and he will either himself or his officials show them how straightforward that process is. Customs and Immigration officials are today in the central market with a pop-up stall speaking to E.U. citizens and showing them how to complete that application form. If we wish to maintain our customs and immigration arrangement that we currently enjoy as British citizens and with the United Kingdom then we need to mirror the system that is happening in the United Kingdom; but we have reduced the cost, the application is I think more straightforward than the U.K. application process, but there still has to be certainty and a robustness to the nature of the application. I understand that it is difficult, that it is sending the opposite message of the one that we in this Assembly wish to send to E.U. citizens who have been resident in earlier, and I have said earlier have been part of our history and culture and I hope will be part of our future as well. But in order to grant what in effect is a form of indefinite leave to remain this process must be gone through.

6.1.10 Deputy M. Tadier:

So notwithstanding the process which we did not ask for and the E.U. immigrants into Jersey did not ask for and did not have a chance to vote on, does the Minister agree that this is all about intent? He may be selling it as cost recovery in terms of the monies that are being asked for from the E.U. workers, but it was well within the gift of the Government to waive this fee, certainly for the immigrants who were already in Jersey. That is the question really: was a policy position put forward to say that if you are already in Jersey we will not charge you but going forward we will charge new entrants into Jersey from the E.U.? Was that ever put on the table?

Senator I.J. Gorst:

We considered many variations, that was one of the variations and there were many others as well. We sought appropriate advice, as you would expect Government Ministers to do.

6.1.11 Deputy M. Tadier:

So will the Minister consider bringing back for debate, so that a Back-Bencher does not need to do it, the rescindment of this fee for E.U. workers in Jersey who are already in the Island?

Senator I.J. Gorst:

I personally would not, I do not think that is a sensible course of action. I fully support the decision that the Minister for Home Affairs made for the reasons that I have outlined.

6.1.12 Deputy J.M. Maçon:

I think it might be useful to quantify this particular issue that Members are expressing a concern about and, therefore, will the Minister undertake in the next couple of months as Brexit plays out whether he - or through his other colleagues around the Council of Ministers - produce for Members the figures? It might be more useful to quantify exactly what this problem looks like, because I would imagine many residents probably have already registered, have already paid their fees, or perhaps not. But it would be good to know exactly the numbers and, therefore, would the Minister undertake to produce such figures?

Senator I.J. Gorst:

In this new era of non-collective responsibility I would hate to tie my colleague Minister to a particular course of action, but I am sure he would have no problem at all, in fact it might already be

in the public domain in his Ministerial Decision the costs that we are talking about. But I am sure that the Minister has heard the request of the Deputy.

The Bailiff:

There are no other questions, then we come to the next item of Public Business which is a statement to be made by the Chief Minister.

7. The Chief Minister - statement regarding public sector industrial action

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

I would like to make a statement to update Members on the current situation regarding industrial relations and pay, and confirm the situation about who is chairing the States Employment Board. As Members know, there is one-day industrial action taking place among civil servants today, and action took place yesterday among customs and immigration staff and teaching assistants. This action was designed to cause maximum disruption to the Island with limited loss of income for those on strike. The Government has had contingency plans in place for some months and while there have been some impacts on public services these have been limited. Here I do acknowledge the co-operation of the unions and the commitment of our employees who are continuing to provide emergency services. The Government is disappointed at the Civil Service unions' decision to call a strike because they know there is no more money to fund higher pay rises that place a recurring burden on public finances. We have negotiated with unions over several months and we have explained why there are financial constraints on public sector pay. We have also clearly explained that civil servants are, in general significantly higher paid than other groups of employees, which is why we offered higher pay settlements for lower paid nurses, midwives and manual workers than for civil servants. A grade 3 civil servant, for instance, earns around £500 a year more in an average base salary than a comparable manual worker, while a grade 6 civil servant earns around £4,300 more. That is simply unfair. Yesterday we published a full table of Civil Service pay which not only shows the pay ranges but also that more than two-thirds of civil servants are paid at the top of their scale. In addition, the taxpayer also contributes an average of 16 per cent salary in employer pension contributions, which is far more generous than is offered by other employers in the Island. Members and Islanders can make their own judgment about whether civil service pay is, therefore, fair and reasonable. The States Employment Board believes that the pay offers that we approved are fair in targeting higher increases at lower paid employees, and they are the best we can offer given the practical financial constraints we have to operate within. We offered 6.7 per cent to manual and energy recovery workers and they accepted that offer in December. We offered 6.1 per cent to nurses and I regret that they did not accept this, although members of the Royal College of Midwives did vote to accept the offer. We understand that the rejection by nurses was not just about pay. As the nursing unions made clear in their statement last week, there are unresolved issues that go back years and we have agreed to mediation to identify and resolve them. As Members know, we have a £30 million to £40 million budget deficit for each of the next 4 years, and we have explained that very clearly to all of the unions. We have to balance the request from unions for higher pay rises for around 6,700 public sector workers against the reality of pay rises for 55,000 private sector workers and the needs of our whole community to maintain responsible public finances and affordable taxes. The public sector pay bill at the beginning of 2018 was £359 million; almost half of total Government spending. These pay offers add £27.4 million to that pay bill and £8.6 million of that is unfunded, which means it has to be paid for by making savings elsewhere. We cannot afford to fund higher pay rises by increasing the budget deficit even further; nor can we raid the rainy-day fund, which the Island needs to weather severe economic shocks, particularly the possible impact of Brexit at this time of great uncertainty. Indeed the Assembly voted to endorse the Government's approach in December when it rejected the proposition to reopen the M.T.F.P. to allocate additional funding for public sector pay. Most

Islanders, I am sure, will not want to see higher taxes to pay for public sector pay rises. I shall also add that we cannot fund recurring increases to the pay bill by culling interim posts, as has been suggested by some. The interim specialists are supporting the public sector to modernise, and helping us to make sustainable reductions in the public sector budget. Theirs are one-off costs, not recurring costs. So between October 2017 and the end of November 2018 these interims cost £3.3 million, although some of them have been covering vacancies so the net cost is lower than that figure. It is a lot of money, but it is a one-off investment in improving public services. Diverting these costs into an across the board cost of living pay rise, as some have suggested, would only fund a third of the £9 million extra cost and in only one year. We would still be left with another £6 million to find this year and a permanent recurring unfunded £9 million to fund each and every year thereafter.

[15:00]

This is over and above the deficit we are already facing and without dealing with the changes we need to make to improve the quality of our public services. This is not simply a legacy of the last Government, but of a long-standing failure to address fundamental reform. I do understand that some people are very concerned about the cost of interims, but they have been brought in to do a specific short-term job after which they will leave and their costs will cease. Not investing in the urgent modernisation that they are supporting would leave us where we have always been: talking about reform but always kicking the can down the road because it is too difficult or because there is some other short-term priority, and always failing to deliver it. My Government is breaking that cycle. We are investing and will deliver the improvements in service that our Island has been demanding for many years. No employee, whether in the public sector or private sector, can assume that they will get cost of living pay rises every year. In these uncertain times that is simply unrealistic. Pay rises will always be determined by a wide range of factors including affordability, comparisons across other employers in the Island, and competitiveness with salaries offered in other jurisdictions. But public sector pay still compares well to private sector pay in Jersey and very well compared to U.K. pay rates, even after taking account of the costs of living in Jersey. According to confidential pay survey data reviewed by our own H.R. (human resources) team, many Jersey private sector organisations have given pay rises of between 1 per cent and 2 per cent over the last year. So the pay rises that we have offered are either in line with or significantly higher than those offered by private businesses in the Island. What we cannot do - and the States Employment Board is resolute in this - is make unaffordable commitments to permanently increasing the public sector pay bill. We know this is hard to hear by the people who are directly affected and we are not taking this stance lightly. What we are doing is continuing to engage with Civil Service and other unions on the underlying issues that need to be resolved beyond the current pay dispute, because a marginal increase to the 2018 and 2019 pay offers will not fix these underlying issues. That is why we have started a root and branch review into pay and terms and conditions across the public service, to seek to resolve the unfair inconsistencies between pay groups once and for all. A number of meetings have already taken place with unions representing head teachers, manual workers and nurses and midwives. We will meet with unions representing uniformed services, teachers, and civil servants too so that we can agree on the issues that need resolving and then get on with quickly sorting them; and we should be allowed the space to work with unions on this. But on the 2018 and 2019 pay offers the States Employment Board is resolute that we have no alternative but to maintain our position because there is no more money and that fact has not changed and it cannot change unless people want to see taxes increased to pay for higher public sector pay rises. I would like to conclude with some comments about the leadership and governance of the States Employment Board. S.E.B. is the statutory employer and its functions and membership were established in the Employment of States of Jersey Employees Law 2005. The Board is made up of 5 political members comprising of Ministers, Assistant Ministers and 2 States Members appointed by the States Assembly. In law, S.E.B. is the employer of most public servants, with some technical exceptions. The board delegates the operation of such powers as it wishes to the Chief Executive, who then may delegate to senior officials if he so

chooses. The Board is chaired by the Chief Minister, although this responsibility can be and is often delegated to a fellow Minister. Senator Vallois chaired S.E.B. until December and I have taken up the reins as chairman since she stepped down. I am ably supported, as was Senator Vallois, by: Assistant Chief Minister, the Connétable of St. Ouen, as vice-chairman; the Minister for Treasury and Resources, Deputy Pinel; the Connétable of St. Lawrence; and Deputy Truscott of St. Brelade. We have continuity of experience through the membership of S.E.B. and since December I have been attending S.E.B. and participating actively in the decisions at this critical time. Since I have been in office as Chief Minister I have also been kept fully briefed on all matters. At a point when I wish to delegate that responsibility to another Minister I will do so. I fully understand the concerns that Members will have about the current situation, and I also understand the feelings of our employees, but I want to assure the Assembly that we are fully aware of what we are doing, why we are doing it, and the long-term consequences for our public finances and our public services if we concede our position in the face of the current industrial action. It is not a comfortable position for the Government or the Island to be in, but it is the only responsible position to take by a government that is working in the interests of the whole community. Thank you and I look forward to the questions.

7.1.1 Deputy M. Tadier:

In the second paragraph the Chief Minister says: “The Government is disappointed at the Civil Service unions’ decision to call a strike.” Who does he include in the word “Government” in this context?

Senator J.A.N. Le Fondré:

I would say the majority of the Executive and at both the political level and also within the senior management team.

7.1.2 Deputy M. Tadier:

When he says “the majority of the Executive” does he mean the majority of the Council of Ministers and will he clarify whether this statement was signed off by the Council of Ministers? If not was it just in fact his statement rather than that of the Government, because I certainly know it does not speak for all Ministers and certainly not for all Assistant Ministers.

Senator J.A.N. Le Fondré:

That is why I said the majority. It has been signed off by myself as Chief Minister and has been cleared by the States Employment Board, which is obviously the employer in this situation.

7.1.3 Senator K.L. Moore:

It was a pity that the Chief Minister did not choose to attend the Royal Square earlier, but I would like to share with him the simple statement that appeared on one of the placards that caught my eye in particular. It says simply: “Invest in your staff; they are your biggest asset.” Would the Chief Minister like to explain to the Assembly - when he states in his statement that he understands the feelings of employees - how he understands the feelings of employees; and also go on to explain whether he has considered any engagement process such as partnership management as a process of moving forward and reaching some negotiation, and harnessing the energy and the determination that our public sector employees have for this organisation?

Senator J.A.N. Le Fondré:

There are a lot of points in there, which I shall try to address. I think we all recognise ... in fact I would hope all Islanders very much value our staff. Yes, they are our biggest asset. However, we have to operate in the financial constraints we have in front of us which is why I make reference to the practical financial constraints we have. Certainly when I started in this position as Chief Minister, I did not know that we had a deficit of £30 million to £40 million a year. I do not think I knew it as chairman of Corporate Services. I do not know if Members knew it. So we have come into a position

that I did not know about when we were standing for election and, therefore, we have to deal with the positions that we are faced and that we are inheriting as a new Council of Ministers, which no doubt the Senator in her previous role perhaps was aware. But anyway the point was for the electorate there was silence and that is what we have inherited, and that is what we are trying to grapple with. We are also grappling with - and this is not anything to do with the previous regime or the one before that - I think we all accept that there have been many issues within the H.R. functions and the controls and balances that we have in place that need to be addressed. That is what we are talking about; we are talking about poor succession planning, lack of investment in management structures, and that leads to poor quality services in certain areas. We see that in all sorts of areas where they are putting in harassment reports and that type of stuff. So when we are talking about investing staff, yes, because those are the types of things that we are looking to address going forward. But we have to work within the financial constraints that this whole community is prepared to work for. In terms of engaging with the workforce - which I would like to address and I appreciate I am taking slightly longer - the States Employment Board, as we know, does not in itself negotiate; that is done at an officer level. Officers meet with the unions and have been meeting with the unions probably once or twice a week for a very long time. The States Employment Board itself - and this is not unusual - met with the unions to listen in October of last year, and I indeed in fact am in the middle of a meeting with the general secretary of Prospect, who may still be downstairs. So in terms of listening, I am very willing to listen. What we have to remember is that negotiation is not about us conceding our position on day one of the first obstacle we face, because we have to remember we have the financial constraints that certainly I did not know about when I stood, and that is the reality of trying to deal with issues that basically people keep ignoring and trying to pretend do not exist. Those are the stark realities we face. We absolutely understand, as Islanders, the value of our workforce, but that workforce deserves a modern system to work in; that we are committed absolutely to doing. Discussions are happening and going on but we also have to operate within the financial constraints we have and that is extremely difficult, not something I ever wanted to but that is the reality of what I inherited when taking on this position.

7.1.4 The Connétable of St. Brelade:

Would the Chief Minister agree that the differentiation between manual workers at certain grades and civil servants at certain grades is a fine thing? Does he appreciate that the reason for the considerable unrest which we saw today at lunchtime is really stimulated by the meddling in the grades, which appears to many to be extremely unfair?

Senator J.A.N. Le Fondré:

Can I just clarify by “fine” does the Connétable mean good or very close?

The Connétable of St. Brelade:

Very close.

Senator J.A.N. Le Fondré:

One of the biggest issues we are facing is what is defined for equal pay for equal value, and what we are finding - and this is what I referred to in the speech - is that within certain pay groups, grades that are comparable and do similar amounts of work get paid differently. So the Civil Service, broadly speaking, has a 4 per cent built-in increment above anybody else. That, when you stand back from it, is unfair; and that is one of the number of issues that we are trying to address. How we deal with it; there have been various attempts and at various discussions sometimes the unions have basically rejected them and then we go back with a different variation. So that is one of the issues that one is trying to address and I guess will carry on trying to address, because fundamentally it means if you are in category A in pay group Z, shall we say, versus category D in pay group 1, even though you

might be comparable that particular individual will not be getting the same level of pay and that is unfair.

7.1.5 Deputy J.M. Maçon:

In the Chief Minister's statement before his conclusion he says: "At the point when I wish to delegate that responsibility to another Minister I will do so" is the Chief Minister able to inform the Assembly who he is considering; and does that include some of the most vocal critics of the States Employment Board?

Senator J.A.N. Le Fondré:

At this stage I am not considering it because I bluntly do not think it would be fair on any person coming in to ... as I say, although I had not chaired the States Employment Board up until December, I have been kept informed and, therefore, it makes absolute sense in my view to keep that continuity going forward. It would not be fair for somebody new to come in and face the challenges at the moment, so at this stage I have no one in mind and I want to get through this dispute and then see where we are.

7.1.6 Deputy K.F. Morel:

I am very concerned that the Chief Minister has suggested that he did not know about this deficit. I am looking at an article in a U.K. national newspaper in 2015 which says: "In April officials announced that the budget in Jersey would be short £125 million a year by 2019." So I am concerned that the Minister suggests that he did not know about this. I am also concerned when the Minister says that if we give pay rises there will be job losses and higher taxes. These are things that the Minister has said will happen regardless.

[15:15]

On more than one occasion in this Assembly the Chief Minister has said we are likely to have higher taxes, and on more than one occasion the Chief Executive has said that reorganisation will result in job losses. That is irrespective of whether pay rises are given. I invite the Chief Minister to comment on that.

Senator J.A.N. Le Fondré:

I thank Deputy Morel from the point of view of identifying what was said in a U.K. journal for what was happening over here. But what I would just clarify is that when the previous Minister for Treasury and Resources, for example, took up his post he inherited a difficult financial situation and efforts were made by the previous Council of Ministers to address that. I believe - and it is from memory - that by 2019 it was broadly coming back into balance; and it did, and in fact this year is a positive year. What we did not know - and I am happy to be corrected if the Deputy knows something - but certainly in my mind, because I would think we would have mentioned it in the elections, what we did not know is that in 2020 the situation got significantly worse. Not just a £5 million deficit but a £30 million-odd deficit. The issue around that lot is that is the position without the additional increments that the unions are requiring, so that just makes it worse. When we previously talked about the £30 million, which is before the additional pay rises that are being sought, what we were focusing on was things like vacancy management ... and what I have also tried to say is I said that I think one has got to be realistic, and I said it in the elections - I cannot remember where - that one of my jobs as I see it is to keep tax increases down. Do not forget, a change in personal allowances if they go down is arguably a tax increase, an increase in duties are increases in taxes ultimately. So an increase in long-term care is an increase in a tax rate. The point is that there will always be some form of tax increase, but what we need to do in my view is not put those tax increases through until we have demonstrated that we can make the savings that we need to, that those savings are sustainable; and my view is that I do not think the overall public would be

supportive of a tax increase just to fund a cost of living pay rise for civil servants particularly, unless we have shown we can demonstrate all the other measures we need to do.

7.1.7 Deputy R.J. Ward:

I am very concerned that the legacy of where we are seems to have been dismissed and ignored. The negotiations in the past have been repeatedly ones of non-engagement by the States Employment Board and the ignoring of pay claims made by unions repeatedly, and the confusion of pay rises with a restricting in the form of workforce modernisation where there was an opportunity to solve this. Then read across was applied by the S.E.B. and the entire system was taken apart and destroyed and led to it being voted against. The same arguments were used then as they are now of deficits which seem to be varying deficits from up to £100 million, £50 million, £70 million; pick a figure out of mid-air. Then we used that in order to drive an agenda of austerity. What we have now is a real situation with our public services. So I would ask the Chief Minister, is this not a political decision in how we distribute the money that we have in our Government and the value that we give to our public servants? Should we not separate pay rises in order to maintain the standard of living for Islanders - a significant number - and then enter into meaningful negotiations about re-organisation rather than importing failed systems from the U.K. that are not only expensive but destructive to the public services in our Island?

Senator J.A.N. Le Fondré:

Again, quite a number of points in there which I will seek to address. Plucking figures out of the air: just by chance I have the sheet and I am sure the Deputy will be delighted to go and look at it later. Page 83 of the Budget finds the deficits that the Minister for Treasury and Resources has notified us exist. So they are not plucked out of the air unless one wants to start casting doubt on the Treasurer and the Treasury team. We can talk about magnitude but I think the principle is we certainly are not in surplus. As I said, I did not come into this knowing that position because otherwise one would be doing things potentially slightly differently, I would suspect. How we distribute pay awards; there are some difficulties around here, let us be clear, because the starting point was - and I will use teaching assistants as an example - we know there are certain areas within certain pay groups that are not well paid, and we would like to seek to address those. The "how" can always be improved, definitely, but at the beginning ... and there was certainly one pay group where it was sought to proportionately pay people who are receiving less within that whole pay group compared to the people further up the chain. That got rejected by the unions, but that offer was very generous to the people at the bottom end of that scale. So from a principle of how you distribute money I agree to an extent with Deputy Ward in that there are ways you can do that. But that was then treating individuals who probably needed greater funding, but within the overall financial envelope that we had, and that is why people for example earning more than £100,000 have been frozen. Now, in terms of communication and things like, I still stick to that point although the trouble is now that I am formally chairman of S.E.B. it puts me in a slightly different position, I was very open to meeting with the unions from a listening point of view, and it was just logistics that got in the way. As I said, I was in the middle of a meeting with the member from Prospect and from that principle I am happy to listen. But I go back to the point - and it is the principle that has always been in place - the States Employment Board does not in itself directly negotiate, it listens; it is the officer side that does negotiation.

The Bailiff:

Chief Minister, you have rather overrun your one minute and 30 seconds. We have already overrun the 15 minutes for the Chief Minister but I have one last question.

7.1.8 Deputy J.H. Perchard:

I just wanted to point out another inaccuracy on the statement of the Chief Minister. It states on page 2, paragraph 7, that: “The salaries are competitive to those compared in other jurisdictions and very well compared to the U.K. pay rates, even after taking account of the cost of living in Jersey.” The Corporate Services Scrutiny Panel have in fact received evidence which I believe was circulated to all Members, but which we can I am sure provide to the Chief Minister, showing the fact that teachers in Jersey could take on average a 20 per cent pay cut and still be better off in the U.K. on a U.K. teacher’s salary because of the very different sizeable difference in the cost of living in both places. I was wondering if he would like to just address that inaccuracy in his statement.

Senator J.A.N. Le Fondré:

I am very happy to sit down with the Deputy at some point and she can identify for me the error of my ways. The point is I think it depends on the data received and from what part of the United Kingdom it relates to, because it depends if it is averaged or not. I suspect that if it was relative to London it will vary but I also believe that in other parts of the U.K. what I said is accurate. **[Interruption]** Sorry, can I just carry on? What I would say is that I have challenged officers on that in the past and I have been assured that is the case. When they have explained the case, I have accepted it but I am happy to correct it if the Deputy wants to take me through the details at some point.

The Bailiff:

That is not going to be happening today and no doubt the Deputy and the Chief Minister can try and resolve that difference between them. If it cannot be resolved, there are other question time opportunities in 2 weeks’ time.

PUBLIC BUSINESS

8. Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201-(P.138/2018)

The Bailiff:

We now come to Public Business. The first item of business is the Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law, P.138/2018, lodged by the Chief Minister, and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law 201-. A Law to further amend the Bankruptcy (Désastre) (Jersey) Law 1990, the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998, the Financial Services Commission (Jersey) Law 1998, the Insurance Business (Jersey) Law 1996 and the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008.

8.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):

I apologise to Members, the Assistant Chief Minister and the Chief Minister have left the Assembly to meet with union officials and they have asked me to act as rapporteur for - sadly, it means Members are going to have to get used to my voice - this item, the next one, the one after and I think the pensions one as well. I look to the Minister for Treasury and Resources to seek direction on that one. So we will start with this one, if I may. This legislation addresses a number of issues identified in Financial Services legislation by the J.F.S.C. (Jersey Financial Services Commission). Members will be aware there is a common theme between this and the next 2 pieces as the legislation has been used over the past number of years and it is about ensuring greater consistency and making a number of administrative amendments to regulatory laws. They include appropriate application of principal

person provisions, consequence of failure to pay J.F.S.C. fees, as well as some minor clarificatory amendments to information-gathering provisions. I will answer any questions, or endeavour to do so, should Members have any. I propose the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles, kindly show. All those against? The principles are adopted. Deputy Morel, does your panel wish to scrutinise this legislation?

Deputy K.F. Morel (Chairman, Economic Affairs Scrutiny Panel):

No, we have had a look and we are quite happy with this, thank you.

The Bailiff:

Thank you. Rapporteur, do you wish to propose the Articles?

8.2 Senator I.J. Gorst:

I will. As I said, they are clarificatory in nature with regard to principal person provisions, failure to pay fees. Of course, I do thank the Scrutiny Panel for their, what I understand from officials has been once again, challenging but helpful engagement in this and the next 2 items as well. Thank you.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the Articles? Those Members in favour of adopting the Articles, kindly show. Those against? The Articles are adopted. Do you wish to propose the Regulations in Third Reading?

Senator I.J. Gorst:

If I may, thank you.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Those Members wishing to adopt the law in Third Reading, kindly show. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Financial Regulation (Miscellaneous Provisions No. 5) (Jersey) Law in Third Reading and I ask the Greffier to open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Mary				
Connétable of St. Martin				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				

Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. 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 J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

9. Draft Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 201- (P.139/2018)

The Bailiff:

We now come to the Draft Financial Regulation (Miscellaneous Provision) (Amendment of Laws) (Jersey) Regulations lodged by the Chief Minister and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Financial Regulation (Miscellaneous Provisions) (Amendment of Laws) (Jersey) Regulations 201-. The States, in pursuance of Articles 1(2) and 30A of the Collective Investment Funds (Jersey) Law 1988, Articles 5, 45A and 51 of the Banking Business (Jersey) Law 1991, Articles 4, 38(3) and 42 of the Financial Services (Jersey) Law 1998, Articles 2, 32A and 41 of the Insurance Business (Jersey) Law 1996, Articles 1(2), 36(9) and 44 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, have made the following Regulations.

The Bailiff:

Senator Gorst, you are acting as rapporteur again?

9.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):

Yes, thank you very much indeed. These changes to various pieces of regulation, they allow the Jersey Financial Services Commission to share restricted information more appropriately with other authorities.

[15:30]

As the Greffier has just read out, Members will have heard the laws in which they do so, so that is around prudential regulation for professional bodies and the pension supervisor. So they are technical and they constitute an approach to sharing information where this is appropriate across financial sectors and I maintain the principles.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Morel, does your panel wish to scrutinise these Regulations?

Deputy K.F. Morel (Chairman, Economic Affairs Scrutiny Panel):

Thank you, no.

The Bailiff:

Do you wish to propose the Regulations *en bloc*, Minister?

Senator I.J. Gorst:

If I may, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on the Regulations? Those in favour of adopting them, kindly show. Those against? The Regulations are adopted. Do you wish to propose them in Third Reading?

Senator I.J. Gorst:

Yes, please, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those Members in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted in Third Reading.

10. Draft Alternative Investment Funds (Amendment) (Jersey) Regulations 201- (P.140/2018)

The Bailiff:

We now come to the Draft Alternative Investment Funds (Amendment) (Jersey) Regulations, P.140/2018, lodged by the Chief Minister. I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Alternative Investment Funds (Amendment) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the European Union Legislation Implementation (Jersey) Law 2014, have made the following Regulations.

10.1 Senator I.J. Gorst (The Minister for External Relations - rapporteur):

The Alternative Investment Funds (Amendment) (Jersey) Regulations amend the Alternative Investment Funds (Jersey) Regulations from 2012. Like the previous propositions, these Regulations concern powers granted to the J.F.S.C. and the Royal Court, this time in respect of financial services businesses relating to investment funds. They principally amend, as the Greffier has read, the Alternative Investment Funds Regulation to bring them in line with the provisions of the collective Investment Funds (Jersey) Law 1988 so they ensure that the J.F.S.C. has information-gathering powers that are consistent with other regulatory laws and also widen them, for example, to ensure that any employee or former employee is within the scope of the rules. Secondly, they enhance the powers of the Royal Court to make restitution orders where a person who provides an investor with false or misleading information is not the same as the person who entered into the relevant transaction with the investor. Thirdly, to enhance the ability of the J.F.S.C. to co-operate when it receives a request for assistance from an overseas regulator. I propose the principles.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Do you wish to propose the Regulations *en bloc*?

Senator I.J. Gorst:

If I may, indeed.

The Bailiff:

Seconded? [**Seconded**] I ignored Deputy Morel, I am so sorry.

Deputy K.F. Morel (Chairman, Economic Affairs Scrutiny Panel):

No, we have discussed it and they are fine, thanks.

The Bailiff:

I sort of suspected that. Does any Member wish to speak on the Regulations? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose them in Third Reading?

Senator I.J. Gorst:

I do, indeed, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those in favour of adopting them in Third Reading, kindly show. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Alternative Investment Funds (Amendment) (Jersey) Regulations in Third Reading. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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 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 J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

11. Draft Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201- (P.141/2018)

The Bailiff:

We now come to the Draft Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations lodged by the States Employment Board and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201-. The States make the following Regulations under Article 2 of the Public Employees (Pensions) (Jersey) Law 2014.

11.1 Connétable R.A. Buchanan of St. Ouen (Member, States Employment Board - rapporteur):

The 4 amendments before the Assembly today will, if agreed by Members, provide clarity on the arrangements for employees who have moved from the Final Salary Scheme for public employees known as P.E.C.R.S. (Public Employees Contributory Retirement Scheme) into the Career Average Scheme on 1st January 2019. The Public Employees Pension Fund Regulations which introduced the Career Average Scheme were adopted by the States in November 2015. Prior to lodging, the draft legislation was reviewed by the Scheme Actuary, the Law Officers' Department and officers from the States Treasury and Exchequer. All parties agreed the Regulations for lodging but highlighted once the Career Average Scheme was in operation, improving areas of drafting may become evident. During the last 3 years the number of minor technical changes to the Regulations have been identified by the Scheme Actuary. The 4 technical amendments presented today are some of these amendments which are required in order to clarify provisions for members who have had to move from the Final Salary Scheme to the Career Average Scheme. These amendments are being reviewed by the Committee of Management and Scheme Actuary and are consistent with the previously-agreed arrangements for Career Average Scheme benefits. The first Regulation to be changed, this amendment will allow a member to transfer away their entitlement in the Final Salary Scheme to another scheme while remaining a member of the Career Average Scheme. The second amendment will clarify payments of a temporary nature which are non-pensionable under the Career Average Scheme as has been the case since January 2016 when the Career Average Scheme came into force and has always been the case under the Final Salary Scheme. This amendment will add clarity and ensure that there is no potential misinterpretation deemed what is pensionable under the Final Salary Scheme and the Career Average Scheme. The third amendment in paragraphs (1) to (3) ensures that the highest final pensionable salary for a transition member is assessed over 10 years prior to that member leaving service. The amendment in paragraph (4) allows a member of the Final

Salary Scheme who has moved into the Career Average Scheme on 1st January 2019 to transfer out their Final Salary Scheme benefits once they have reached their Final Salary Scheme normal retirement date. Regulation 4: Citation and commencement. The Regulations are the Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201-, date to be inserted, will come into force once we have approved it. I move the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Senator Moore, does your panel wish to scrutinise these Regulations?

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

No, thank you.

The Bailiff:

Connétable, are you going to propose them *en bloc*?

The Connétable of St. Ouen:

Yes, if I could, please.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose them in Third Reading?

The Connétable of St. Ouen:

Yes.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The appel is called for. I invite Members to return to their seats. The vote is on the Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations lodged by the States Employment Board. The vote is on whether to adopt these in Third Reading. By now, most Members should have been back in the Assembly and I ask the Greffier to open the voting.

POUR: 37
Senator I.J. Gorst
Senator L.J. Farnham
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mézec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)

CONTRE: 0

ABSTAIN: 0

Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy of St. Ouen
Deputy L.M.C. Doublet (S)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of Trinity
Deputy of St. John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

12. Draft Air Navigation (Rules of the Air) (Amendment) (Jersey) Regulations 201-(P.142/2018)

The Bailiff:

We now come to the Draft Air Navigation (Rules of the Air) (Amendment) (Jersey) Regulations, P.142/2018, lodged by the Minister for External Relations and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Air Navigation (Rules of the Air) (Amendment) (Jersey) Regulations 201-. The States, in pursuance of Article 46 and 180(c) of the Air Navigation (Jersey) Law 2014, have made the following Regulations.

12.1 Senator I.J. Gorst (The Minister for External Relations):

Jersey first implemented the Standardised European Rules of the Air under the Air Navigation (Rules of the Air) (Jersey) Regulation 2017 in July of that year. The Standardised European Rules of the Air apply to all aircraft operating in E.U. air space and due to Jersey's close proximity to France, it is important for aviation safety that a common set of rules are followed. Amendments have been made to the Standardised European Rules of the Air and this amendment to our 2017 Regulations implement those changes in Jersey. The changes are of a purely technical nature required to ensure that we continue to follow a common set of rules, ensuring the free flow of air traffic to and from the Island. The list of changes are listed in the amendment. There are no significant changes, rather just editorial, as in missing words, further clarification for air traffic services and pilots under an additional section on the use of English as the default language. I will not run through them all. The main changes to Jersey Rules of the Air were done with the adoption of the Air Navigation Regulations in 2017, as I said, and the changes that would be introduced by this amendment are non-contentious amendments which have in actual fact been in practice for over a year. I propose the amendments.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? Those in favour of adopting the principles, kindly show. Those against? The principles are adopted. How do you wish to propose these Regulations, Minister?

Senator I.J. Gorst:

As they are clarificatory, as I have said, and purely technical in nature and have already been in practice for over a year, I propose to propose them *en bloc*.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on any of the Regulations? Those in favour of adopting them, kindly show. Those against? The Regulations are adopted. You propose them in Third Reading, Minister?

Senator I.J. Gorst:

If I may, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those in favour of adopting them in Third Reading, kindly show. The appel is called for. I ask Members to return to their seats and the vote is on whether to adopt the Air Navigation (Rules of the Air) (Amendment) Regulations in Third Reading. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
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 G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. 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 J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

13. Children (Jersey) Law 2002: repeal of Article 79 (P.144/2018)

The Bailiff:

We now come to P.144/2018, Children (Jersey) Law 2002: repeal of Article 79 and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) that Article 79 of the Children (Jersey) Law 2002 should be repealed, together with any other statutory or customary provision of similar effect; (b) to request the Council of Ministers to bring forward the necessary legislative amendments; and (c) to request the Council of Ministers to implement awareness-raising, guidance and training measures in respect of the prohibition of corporal punishment in conjunction with the introduction of the legislative amendments

13.1 Deputy M.R. Le Hegarat:

In 2018, 42 Members of this Assembly signed a pledge undertaking to put children first, to hold government, legislators and the public service to account, to improve the care and uphold the rights of children in the Island. This proposition represents practical action to deliver on that commitment. We are not, as has been suggested, considering a scenario where a parent or carer intervenes to stop a child running in front of a car, put their fingers in an electrical socket or touch a hot stove. Society would of course expect us to act in such cases. This proposition relates to slapping, the deliberate use of physical force and causing pain to their child as chastisement. I would like to touch upon some of the reasons why it should be made unlawful. There is no evidence it is effective or deals with the root cause; smacking does not work.

[15:45]

It may force a child to comply in the short term but it is not effective in preventing behaviour being repeated. The focus is on the punishment, not the behaviour. Long-term studies consistently show that not only does it not work, it can lead to emotional problems later in life. "It never did me any harm" is what will be said. Some rationalise smacking with the argument that they were smacked and it never did them any harm. Not only is this not scientific, it is and it is often used to dismiss bad habits and undesirable behaviours. It teaches violence. Is it really right that we should show children that violence is the correct way to deal with anger, to use physical force and lash out as a way of controlling another person? Just because something has been done in the past does not mean that it is right to continue to do so. Time, standards and society changes and we need to reflect that change. Violence breeds violence. National commissions in the U.K., America, Australia, Germany and South Africa have recommended ending corporal punishment of children as an essential step towards reducing all violence in society. It takes control away from the child. Smacking relies on the fact that a child is smaller and helpless to defend themselves. As children grow up, we teach them that they are in control of their own body. We teach them about consent, healthy relationships and respect. By hitting the child, you are taking control without their consent and demonstrating that consent is unimportant. Smacking is designed to hurt. Why would somebody who loves you want to physically hurt you? It can damage the relationship and cause a lack of trust. It is as humiliating for the parent

as well as the child. Where do you go from smacking? Numerous research projects have shown smacking does not work. Though some claim it is a last resort, studies show the reality that parents who slap move to violent punishment very quickly. There is a risk that as punishment proves ineffective, the smacks grow harder and more frequent. Some concluding remarks: the law prohibits us from smacking, pushing or hitting another adult. It also protects our pets from violence and yet we do not afford the same protection to our children, the most vulnerable in our society. Smacking is a legacy issue from our past, an outlet for frustration, anger and aggression of the adult and there is no evidence it is of benefit to the child. On the contrary, the overwhelming rate of evidence, scientific evidence, shows exactly the reverse. How many adults can truly feel comfortable after smacking a child? Preventing the physical assault of children is singly the most important decision we can make to protect them. Let us demonstrate that Jersey is forward thinking and progressive. Let us listen to the voice of children. I would urge you to honour the undertaking that you have given. Thank you. **[Approbation]**

The Bailiff:

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

13.1.1 Senator S.Y. Mézec:

I am pleased to follow Deputy Le Hegarat. I agreed with every word that she said and I wanted to speak early in this debate to get the ministerial position on this proposition clear. But in standing up to speak I appreciate that this is a debate which could prove to be quite emotive and I understand that it is on an issue that some will consider very personal. I am not a parent but I know that to parents there is nothing more important to them than their children and that they want what is best for them. Many will have different views and different philosophies on how to be a good parent and if you take a different view from one, it does not mean that someone is a bad parent. I think it is important to make that point. I want to be clear that how we all cast our votes in this debate today should not be seen as a verdict on the thousands of good parents in Jersey who may take a different view. To give one example, I will raise my own parents. I was smacked as a child. I do not believe that it had any negative impacts on me, it has not changed the way that I love my parents and I do not resent them at all for that. I know there will be many people in this room that will have had the same experience in their upbringing but I do strongly urge Members to support this proposition. Jersey is on a journey. We do not have a good history in our Island when it comes to looking after children and the Care Inquiry should be that watershed moment for this Island. We have really a huge amount to do to move forward and to make this an Island where every child can thrive. We are going to have to do a lot of thinking about the rights of children, how this has to change and how that interacts with other rights as well. We have a very long way to go and that is going to be very challenging to us. We are doing some very important things. We obviously have a Children's Commissioner appointed and I hope very shortly we will be lodging the legislation to enshrine the role of Children's Commissioner. We have appointed a Children's Rights Officer and there is much more to be done and, not least of all, we have to replace our out-of-date Children's Law. That is going to be a comprehensive piece of work and there are things we will have to do in the meantime before we get to that stage. But in this journey that Jersey is going on, I think that it has been a crucial development what Jersey has done with the United Nations Convention on the Rights of the Child. We had it extended to us in 2014 but following the proposition from Deputy Doublet, we have agreed to incorporate the U.N.C.R.C. in Jersey. I think that this has far-reaching implications, some of which maybe not all Members were aware of the consequences when they unanimously voted to support that proposition, and that is going to be very challenging over the coming years. It is going to challenge our legislation and our policies and we are going to have to bring them up to standard and we will be doing so because it is the right thing to do. The U.N.C.R.C. is absolutely unambiguous that corporal punishment of children is prohibited. Not only does it make that general statement but in 2016 the U.N. Committee for the U.N.C.R.C. specifically told Jersey that we are in breach because of this

Article in the law and said we should make it a priority to deal with it. As Minister, as I do the work to put together that Children's Law, and if I end up still in office when that law is to be brought to this Assembly, it will not include an equivalent of Article 79 because to do so would be in breach of the U.N.C.R.C. and that cannot happen. If this defence in law is to be retained, it would have to come as an amendment to the future Children's Law and what a sad indictment that would be on our Island, I think, having signed up to the U.N.C.R.C., to then go through a process of not adhering to something that is very clear and very basic in it. So I am very grateful to Deputy Le Hegarat for bringing this proposition forward at this time even though it will be something included in the future new Children's Law. It is right that we can deal with it now. It is practical that we can do so. It is not onerous and I think the sections on providing greater support to parents and families are a very helpful suggestion. The comments that I have lodged as Minister show that there is no undue burden put on us by doing this. We can achieve this, it does not disrupt other work that is going on. I think the submissions that we have received from the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) and the Children's Commissioner, as well as our own comments that we have lodged, show that what Deputy Le Hegarat said in her speech was absolutely right, that there is overwhelming evidence in other jurisdictions of the positive impacts this has. There will be some arguments, I suspect, made in this debate that I just want to attempt to address now. There will be those who will say that this is one of those nanny state laws that intrudes too far into people's lives and it is never an argument I particularly have much time for hearing. Some may say that it is a law that will be unenforceable. Again, I disagree with this as well because I think it misses the point. The point is often not to prosecute parents, it is not to punish parents and drag them through a court process that they otherwise would not have gone to but it provides that extra certainty where a case does arise where you do not end up in the absurd situation where lawyers in court can spend hours and hours arguing over a point when in actual fact a simple piece of legislation could have prevented that from happening at all. We already have processes in place for dealing with safeguarding issues, including through the Multi-Agency Safeguarding Hub, and none of that will be affected by this. It will continue to do the good work that it needs to do. We already have some work underway in providing parenting support for those who want it and there are more discussions we can have and will have as a result of this proposition if it is adopted. All of that aside, I just want to make a few comments about my personal perspective on it. I simply cannot understand why some would choose to use violence, because that is what smacking is, violence to try to influence someone's behaviour. There are plenty of adults who behave in particular ways that infuriate me, that make me angry, that I think they have done the wrong thing and I would very much like to do something about it, and I would end up in prison if I did do so but for some reason that exemption exists for children. How can that possibly be right? I was not going to raise this example but I will. I said at the beginning that I am not a parent. I am not, I am an uncle, though, and I have a small niece who is the most wonderful and precious little person you could possibly imagine. Occasionally, much like her uncle, she sometimes misbehaves and you have to have a few words with her and explain to her that she is not a bad girl, she is good, but sometimes you are not allowed to do certain things; you have to behave yourself in a particular way. I think that that must surely be a better way of dealing with bad behaviour than inflicting violence upon them. I just cannot accept it and I find it strange. As Deputy Le Hegarat was making the proposition, I could hear a Member sat nearby, she posed a rhetorical question: "Why would you want to hurt those you love?" and I heard a Member say: "Well what if they are about to run in front of a car or something and you needed to help them?" I want to nip this in the bud right now because that totally misses the point of what we are debating. We are talking about corporal punishment. If it is an issue to do with the safety of a child where you have to physically intervene, whether that is to physically pick someone up and move them or stop them from hurting themselves, that is not the same thing as saying: "You have behaved badly so here is some pain as a result of that." It is not the same thing. So I think that needs to be nipped in the bud because this is not an accurate or relevant point. I think the point that Deputy Le Hegarat also raised, this cliché we may hear in this debate: "Well I was smacked as a child and it never did me any harm;

therefore, I support smacking children.” I am sorry, but if you came to the conclusion that violence is a good way of influencing people’s behaviour, I am afraid it did do you harm. It is not the way that people should behave to one another and certainly not the way to behave to children. This debate, I suspect, may get more interesting and emotional as it goes on but I just want to thank the Deputy for raising this proposition, to thank the N.S.P.C.C. and the Children’s Commissioner for their very helpful comments and to say that we have decided to put children first, to put them at the heart of everything we do.

[16:00]

Most of us have signed up to a pledge which I always intended for it to be more than just a statement but for it to lead to concrete actions, and I cannot think of a better action than what is proposed here today, to safeguard our children, to move the Island into a more modern and enlightened age where we look at different sorts of punishments rather than smacking. I sincerely hope the proposition is adopted today because I think it would seriously send the wrong message given all the commitments we have made, so I urge Members to support the proposition.

13.1.2 Deputy L.M.C. Doublet:

Senator Mézec has said a lot of the things that I was going to say, particularly on the nanny state argument which I have heard quite often from the public, on social media and from some States Members. Just to add to that, that the nanny state argument is often used when we are talking about lifestyle choices such as smoking or alcohol intake and public health interventions. This is not about having autonomy over one’s own body, this is about something that you would do to another person, so I do not think the nanny state argument applies at all in this case. The main point that I wanted to mention is I think there is some worry that parents will not have the capacity to discipline their children and concern that we will have a generation of children that will be entitled and undisciplined and will not have boundaries. I wanted to address this because in my own experience the work that we are doing towards improving rights for children, when that work has been done in schools and it is explained to children in schools, it is always coupled with talking to them about their responsibilities. It has the effect of improving their behaviour. If we want to look at some hard facts on this, there was a report - it was a few years ago now in 2013 - which was carried out for the Home Affairs Department which reported, and I quote: “a remarkable downward trend in youth offending”. So young people, as smacking and physical chastisement becomes less common in our society, are becoming more well-behaved and less prone to criminal activity. I do believe that teachers among us will have seen that trend as well, especially those who have had a longer experience in teaching. So, raising a child is never an easy task. I have a 2 year-old at home so we are well into the conversations about how to discipline him. As an ex-teacher and a police officer, we are strict with him and we will never, ever, ever physically chastise him. It is possible to be strict with your child, to give them clear, consistent and firm boundaries, and children do need guidelines. I hope that this is the start of a conversation that we can have as a society about what guidelines, what boundaries and what values really we want to instil in our children. Now that we have acknowledged that they are our priority in the future, I want to see some conversations happening with the Minister for Education, with the Minister for Children and Housing, with the Chief Minister about how we help parents to attain these skills because it is not easy. The skills in disciplining children and managing children’s behaviour, I had to go to university to learn those, and I am so grateful that I have had that training now that I am a parent. So I think the recommendations from the N.S.P.C.C., we must not just look at those and then set them aside. I think some serious thought needs to be given to that. I am aware that the Education Department is already undertaking some work. I think Triple P parenting programme was referenced somewhere. Now I do have a question. I do not know if the Minister for Education is going to speak on this but if she does, I wonder if she could just maybe give a bit more detail on how parents access that because I think there may be some parents out there and, like Senator Mézec said, good parents who genuinely adore their children and want to do what is best

for them. Hopefully this will be passed: if we do pass this, they might be thinking: “How do I discipline my child?” So I would like to just hear from the Minister for Education how parents can access that and specifically how do they access the Triple P programme which I believe is based in schools. If, say, they are new parents who do not have children in schools yet, how do they access those courses and opportunities to learn about parenting skills? But I would urge everybody to support this. There might be people in here who either were smacked as children and do not see a problem with it or might use physical discipline with their own children. There is something called the “confirmation bias” where when we have decided on something that is important to us and we act accordingly with those values, it is very, very difficult, even when presented with overwhelming evidence to the contrary, it is very difficult, especially when it is something that is part of your core values, it is difficult to then stand up and say: “I was wrong and I am going to act in a different way.” It is almost like the human brain does not have capacity to hold those 2 beliefs at the same time. But I would urge Members, if they are somebody who is in that situation, to try and make that mental leap because it does not mean, as again Senator Mézec said, that you have been a bad parent. Every parent does the best they can; I really believe that. I think as a government we need to stand together on this. I really hope that this goes through unanimously to show our support for our children and that going forwards we will show support for parents in helping them with any difficulties that they have in helping to raise their children, so please support this proposition.

13.1.3 Deputy T. Pointon of St. John:

You have probably had your attention drawn to the fact that you have a couple of papers on your desks, one from the Children’s Commissioner and the other from the N.S.P.C.C. I trust you have read them; both of those papers reflect Deputy Le Hegarat’s views. When I was preparing to speak to this issue, I felt a compelling urge to draw on my own personal experience, so you are not going to hear about academic theories or about what happened yesterday, you are going to hear about what has happened in my life. I am 70 years of age. I was brought up in an era that not only allowed but advocated corporal punishment. In schools the cane, the slipper and other weapons were used to try and subdue the free spirit of children or, to use another well-worn term, to correct their errant ways. During my secondary education the perceived wisdom was that 2 strokes of the cane on each hand would deter lateness if administered after the second offence. I was being caned every other day because no one was bright enough to realise that my particular circumstances guaranteed I would be late every day. All this approach achieved was to provoke in me a feeling of mistrust and resentment of officialdom. At home, a so-called loving environment, my parents, both district nurses and convinced Christians, perpetrated a culture of physical control to maintain the *status quo*. My dad very much took a pacifist approach and preached to us the love of Jesus and the power of prayer. He relied on my mum to deliver order in the house and unfortunately she was overwhelmed. In the early years there were limited resources deployed to assist a collective family understanding of how we should all behave toward one another. Given the challenge and the stress she experienced, she could only resort to behaving in a manner that mirrored the perceived wisdom of the day. That was to threaten physical violence. There was always a background threat of physical punishment should we 4 children not comply with her wishes. She kept a big stick on the sitting room mantelpiece and was not afraid to use it. As a young child fear of receiving a whack did act as a deterrent but nothing for the child/parent relationship. Until the day she died I was unable to share anything of substance with my mother. It was at junior school that I became a might more independent. My parents and their children, my brother, 2 sisters and me, had been housed by the council in a new estate, the accommodation being designated the “district nurse’s residence” and this was a very special place to be in those days. The nature of the occupation was well known to local residents. The district nurse was revered by the surrounding community and could be called upon to give practical support and health advice. I was about 9 or 10 years old and demonstrated an enquiring and rebellious nature. Christmas of that year I had experimented with a lighted match against my mum’s cotton wool decorations. The whole lot burst into flames, igniting the curtains and nearly spreading to the whole

house. My competent mother came to the rescue, ripped the burning materials down and cast them out through the front door, a disaster averted, and a clip around the ear. If many of the clips around the ear for many misdemeanours before this had been effective, why was it necessary to deliver yet another clip around the ear? Some of you are now thinking: “But he deserved it” and I have to say at the time I probably thought the same myself. But the point is, did all the previous physical interventions, and there were many, prevent the somewhat dangerous Christmas behaviour? The answer is: no. The Christmas event though pales into insignificance as the New Year progresses. Height of summer and once again Trevor is at odds with his mum. Reasons for the altercation are lost but the subsequent events for ever are clear. The said parties are in conflict and Trevor removes himself from the confrontation, departing the house in a rush because he is being threatened with a yard broom. Mum follows at close quarters brandishing the said broom at head height. Trevor being the nimbler rushes out of the garden into the public domain, closely followed by Mum who has not noticed that there is a potential for an audience. It happens that adjacent to the house is an open-grassed square that is flanked on 2 sides by several houses. All of the occupants know my mother’s and father’s important status. Trevor runs around the square, soon outstripping Mum who continues the pursuit brandishing the broom. His response is to turn and taunt his Mum with: “Ha, ha, you cannot catch me.” Mum would have carried on but became aware that her antics were being observed by residents appearing on doorsteps. Her reputation was quickly plummeting. It is interesting that in the aftermath of this event, my mum changed tactic and I recall that she began to favour negotiation rather than trying to impose parental will. For my own part it was difficult to be convinced that the physical threat had gone away. I was not able to trust my parents in my formative years, especially as they had subjected me to a schooling experience that advocated violent, painful responses to breaches of the rules. My own parenting experience has involved 4 children and has been largely a process of negotiated solutions. The experiences I utilised came not in the main from my family but from subsequent experience in professional therapeutic settings. I recall one occasion when the youngest at the time was so frustrated that he was punching holes in the plasterboard wall. He was so furious and out of control that he hit out. I in turn found myself to be furious in response and landed a slap on the side of his face. The slap did not resolve the situation. Resolution came as a result of a long and meaningful hug. A slap as a consistent, repeated action does not produce good relationships between parents and children. I quote Andy Jones writing in the *J.E.P. (Jersey Evening Post)* on Friday, 28th December and he writes: “Children are not our possessions. We are their guardians until they reach maturity and their guides for as long as they live. At best, hitting children is a shortcut used owing to inadequate parenting skills signifying failure. At its worst, it is about status, power and control and the ability to enforce your will on another less powerful than you; when you do start hitting, when do you stop hitting?”

[16:15]

We do not need to hit children in order to raise well-behaved adults. Please vote for this amendment, a major step forward for an Assembly dedicated to putting children first. **[Approbation]**

13.1.4 Deputy K.G. Pamplin:

What a pleasure to follow my Health and Social Services Scrutiny Panel member. It would not surprise Members that I am going to talk about 2 things: mental health and the love of my 2 children and hopefully the prospect of more children. That is a proposition, you will be happy to know, my partner is seconding in the Third Reading. Those who spent time with my daughter, Beatrice Pamplin, and my son, Jack, will know how loving, caring, brilliant, cheeky and mischievous but curious children they are. Jack himself is now in the top 40 of the entire country for drumming and we are incredibly proud of him. But it would be fair to say at 17 years of age, as I am reminding myself what it is like to be a teenager, as much as I think I am one at times, there have been challenging times and echoing some of the things that the Deputy of St. John was talking about where you get to that moment of frustration where you love somebody so much that you can see the anguish

in them that they do start lashing out and you sort of replicate what is being put in front of you. It is a challenge and we all know it is tough times at the moment and you are struggling like I have in the past: how am I going to pay the next bill, how am I going to ensure they are getting a good education? You, yourself, are going through these issues and you just want to be a good dad but it is taking that step back and eventually having space then, really importantly, coming back together, as the Deputy of St. John mentioned. Nothing beats a good hug and good listening and good parenting. The second issue is, obviously for me, an important one and that is mental health. As Members know, our panel has been carrying out and are soon to release a highly-probing and highly-dedicated and researched report into the current picture of mental health in the Island. It is interesting because during this process we have been able to connect with many Islanders through our online survey and those who have been brave enough to trust us in coming forward which is I think a really key point for the evolution of this Assembly to have that trust with people who are in pain and are looking to us to help. But when we speak to those people and you look back in the past, the things that they remember are the pain and they are the things that you hang on to. We talk about mental health interaction and intervention at that early stage and little things tend to grow. We all know now what to do if we, in our own physical health, notice anything and check for lumps. We also understand what high blood pressure could lead to; we are much more aware of things now, and the symptoms for strokes. Those early checks and early interventions, as we now know, save lives. It is exactly the same approach that needs to be taken with mental health because those early moments can fester if intervention is not provided. The environment that we create as an Island, the environment we create as parents and as role models, politicians to just get members of society to start listening to the Island as we change, because we imply will on to people, and the force of how you are supposed to be, how you are supposed to fulfil, to be successful, can put a lot of pressure on all of us and as parents as well. Interestingly of course at school-run time we have many conversations when I am picking up Bea from school and this obviously has been a good talking point. What I can tell you is parents do talk to each other about these things. We are much more open than I remember of sharing our concerns of parenting. Because those of you who are parents like myself, is it not fascinating, when you have a child and you have your new-born baby, that everybody all of a sudden becomes the expert at parenting: "That is not how you should hold your child." "Oh, you should not do this" and you are constantly battering all these things. Everybody means well. I do not think I would ever lash out at anybody who gave me some advice at that time but it is the society we live in because we want to do the right thing, so let us do the right thing here. It is very clear and, again, I am sure it is going to be mentioned many times, the briefing note from the N.S.P.C.C. sums it up quite brilliantly. This charity is so important right now as we grapple with the issues that we face with young people, especially physical and mental health. But they made a point very clear that a new criminal offence will not be introduced here, that reasonable corporal punishment you do not need any longer to be able to defend yourself. It changes the conversation much how beautifully the Deputy illustrated about how mediation and consultation and respecting each other will go a long way. I urge Members to join in my colleague's proposition in voting for this. Thank you.

13.1.5 Senator T.A. Vallois:

I will just briefly. Of course Deputy Doublet asked me a question directly, but also to refer to the fact that within the Article 79 it is not just with regards to parents. It is the fact that it gives the ability of a carer to use a hand against a child in terms of chastisement, so I think that needs to be recognised when we are discussing this; it is not just the parent. I am fully supportive of this and you will see in the comments of course, and Deputy Doublet was right, it mentions Triple P parenting programmes. This is something which the Education Department have been rolling out, not for a long time but for the short term. This has been going on for quite a while within various different schools but it is accessible online, so all the information about parenting support services on gov.je. There are a range of seminars that are being carried out, discussion groups at various different schools at various different times for various different ages. This is a conversation I was having - because the Minister

for Children and Housing and I of course work together extremely closely now with regards to our departments and the role that we play in terms of putting children first - something that we absolutely need to recognise is that if this was to be approved and the removal of Article 79 from the Children's Law went ahead, we have got a huge task on our hands to try and provide the support that is needed, not just to parents, but also to carers in terms of how we can assist because Deputy Pamplin was absolutely right when he states that we need the early intervention but we also need to say that it is okay not to be okay. Nobody is perfect and parenting is not an easy job. Caring for other people, caring for children is not an easy job, so I raise this because I think we need a universal programme. It has been recognised some of the most successful ways in dealing with this in terms of removing this corporal punishment, thoughts and culture and view within a society is best coupled with an educational programme for all society, not just parents, not just carers but across the whole of society. Speaking with the Minister for Children and Housing, we have talked about how we could possibly go ahead and try and push some of these things through. Not just through Triple P but when I was on States Employment Board I asked about whether there would be an ability for us to provide these parenting programmes to all of our staff in the public sector as a way to starting the ball rolling, so that everybody understands the values and the support that is there and that we can provide, as a public sector not just as a government, but as a society as a whole. So I would ask Members to please support Deputy Le Hegarat and I am grateful that she has brought this proposition and I am absolutely fully supportive of it.

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

I am trying to understand the law and the Article that we are speaking of and I heard here that they were not going to create an offence. But as far as I understand the law, if we get rid of Article 79 then slapping a child under your responsibility does become an assault or an allegation of having slapped a child under your responsibility does become an assault, and I do remember those as fairly serious in Jersey jurisdiction. Can we have some clarification about this, please?

Mr. R.J. MacRae, H.M. Attorney General:

Can I ask the Deputy to confirm that the nature of his question is: is the effect of this, law if the States do bring forward legislation that slapping a child will become assault? I will make sure that is the question that I am being asked.

Deputy G.C. Guida:

Yes, it is.

The Attorney General:

Yes, that is right. As I think is clear from the speech of the proposer, and indeed the speech of the Minister for Children, the position is that children then enjoy the same protection from assault as do other persons. It simply removes the special status they have under our law. Indeed the equivalent Scottish legislation, the draft Bill in there which is soon be considered by the Scottish Parliament is called the Children (Equal Protection from Assault) (Scotland) Bill, which I suppose speaks for itself.

The Bailiff:

Do you have your answer?

Deputy G.C. Guida:

That answers my question, thank you very much.

13.1.7 Deputy M. Tadier:

The debate seems to have been very one-sided at the moment. We have had lots of arguments being put forward anticipating the arguments against people who might say: "Oh, but it never did me any harm as a child" and against those who would seek to defend the rights of parents to use what they

may consider - I hope not, that there are not too many of them - as proportionate force against their own children in order to discipline them. I am interested to know what the Christian view is in Jersey. I know that many in the Assembly today would have availed themselves of the opportunity to very piously go down the road and start the New Year off as they would wish to at the St. Helier Town Church and give their due respect to the Big Man, or apparently He may be a woman nowadays; we do not know because I understand the Church of England has taken some time out on that one because they need to appeal to a new audience. But let us say that it is a man for the time being. Certainly when I was growing up in the church it was quite commonplace for the proverb to be quoted to one from Proverbs 23:13 which talks about this mythical rod. We all know the expression: "Spare the rod, spoil the child" or: "Do not withhold discipline from a child. If you do not punish him with the rod he will not die." Now of course we know the church is trying to change their theology and doctrine all the time to become more popular and to get new members, but certainly when I was young there was no question that the rod was a physical one; it was not a metaphorical one as it is trying to be interpreted as nowadays. Some people will say: "Well, the rod just means general discipline." That means that you can do that through negotiation or through words. But we know that the rod in the context of the Bible does refer to a physical one. If we look at what Exodus says, Exodus 21:20, it says that: "If a man beats his male or female slave with a rod and the slave dies as a direct result he must be punished" - the person beating the slave must be punished. They are saying: "You know it is okay to beat your slaves, whether it is a male or female slave, but do not beat them to the point where they will die." I mean that should go without saying. I am not sure why the Bible took it upon itself to tell the slave owners to do that, because they would be one slave short if they did. But nonetheless it was deemed that it is okay to use corporal punishment so long as you do not use it to excess. So I would like to hear from the many Christians in this Assembly, including perhaps those who have just left the Back-Benches, the Senatorial benches, to find out what their particular take is. Has the Bible got it wrong on this one, because as far as I know ... I do not have a problem incidentally, because I am an atheist. The several decades that I spent in church growing up made sure that was the case. But I know that others are not so fortunate in this Assembly and they may still provide the words of the Bible with some kind of importance when it comes to debate in this Assembly.

[16:30]

13.1.8 The Deputy of St. Mary:

I was not going to speak but Deputy Tadier's comments have prompted me to do so. I was very ...

The Bailiff:

Well, you do not need to because he did not speak on the proposition at all. **[Laughter]** So if you wish to advance a Christian defence I will rule it out of order.

The Deputy of St. Mary:

I do have a caveat, Sir, if I may. I repeat I was very pleased to attend this morning's service but I am capable, I think, of separating my Christian doctrine, or whatever doctrine I have, from the duties of this Assembly which is to pass civil laws for the benefit of all. So I do not, I am afraid, see the connection. I do not wish to undermine the seriousness of this, but as we are in storytelling mode maybe I could refer to an incident which happened at a certain household in St. Mary on Christmas Eve. One young child, 3 year-old, insisted in shining a torch in his younger brother's eyes which prompted his grandfather on the third occasion to say: "If you do not stop it I will spank you." This in turn prompted 2 reactions: one, said grandchild ceasing to shine said torch in his brother's eyes, coupled with an immediate plea to his mother about what Grandpa had said; and the second response was a squawk from my daughter to the effect that you will not be able to do that next month if Deputy Le Hegarat's proposition goes through. This in turn prompted my own response about proposing an amendment exempting grandparents. While I think that would be a reasonable result, because I think

on the whole grandparents are a benign lot and do not smack unless in a measured form, I do accept the seriousness of this and that one could not exempt a special class. Surprising as it may be, being of a certain generation, I do support the proposition. I was one that did suffer, like the Deputy of St. John, frequent canings at school; whether they did me any harm or not I leave others to judge, but they did have a deterrent effect. But I do accept that there are other ways of bringing a child to heel and I shall support the proposition.

13.1.9 Connétable J. Le Bailly of St. Mary:

I would just like to refer my own experience with grandparents, quite unlike what grandparents should be: loving and tender to their grandchildren. My grandmother was French. She was known to rule with a rod of iron. In fact, that rod of iron was not a rod of iron, it was a broom handle about a foot long and it had 4 bootlaces in it, and that was so she could get you about an extra 2 feet from her hand. On many occasions I used to get a lick across the legs. I do not know what for, but it hurt like hell. Subsequently I hated my grandmother. Never had a grandmother relationship with her. The unfortunate thing with this is my father used to get the same treatment, and so that was something my father inherited and I used to get that at home also for no reason whatsoever - just being late perhaps, or just not being in time for a meal. I do not think that is the way to treat children, whether it is a piece of equipment or whether it is by hand. There are other ways of relating to children if they have done something wrong. So we have been elected to make a change in this Chamber and this is one thing that we can definitely change, and I would firmly support the Deputy's proposition.

13.1.10 Senator S.C. Ferguson:

How long before we just take children away from their parents at birth and install them in State-run dormitories? This is what we are sliding down the slippery slope towards. Welcome to *1984* and *Brave New World*. It is not the business of the States to dictate every aspect of life. That is what they do in totalitarian states. Yes, we should protect those being mistreated or abused, which is not exclusive to youngsters; the elderly are equally vulnerable. But to impose political correctness on the population as a whole is rubbish. On the other hand, if we are going to impose political correctness, perhaps we should ban baby buggies. I mean, let us face it, all the poor children can see are knees as they are pushed around town; and let us ban using phones when pushing children around in a pram. You should be talking to your child, not just gabbling away on your iPhone. We are starting to forget the purpose of government. The question is how much power should the Government arrogate to itself? In communist and socialist regimes, the move is to total centralisation of government. In my universe, government provides a framework, and providing citizens comply with the rules government will not interfere in their private lives. In my universe we disagree in a civilised manner. Why do people smack their child? To most parents it is not a question of venting your fury; it is a question of discipline. A short sharp smack on the leg or the behind is much more effective than a long lecture or banishment to the naughty step. Reasoning is possible with an older child, but it is an exceptional 3 year-old who understands a long lecture on why it is dangerous just to run across the road, especially when you have been told not to. Once a child can reason, then you can negotiate. But the important thing is that you have to be consistent: no means no. Once the child is older you may need more drastic treatment. One of my friends had a 7 year-old who threw a tantrum in the supermarket, lying on the floor, screaming. His father said: "Right, if you do not get up and behave I shall drag you out along the floor" and the child continued to throw a tantrum. So the father started dragging him out along the floor. In actual fact, the tantrum stopped immediately. But once this law goes through the father could be done for cruelty and abusing a child. There are various references by learned academics about how dreadful any smacking at all is. But those at the sharp end, particularly parents who have been through the mill, appear, from what I have seen, to be in favour of the odd smack to impress a young child of the inadvisability of a dangerous action. In fact, some parents and even psychologists - I have some references - have gone so far as to comment that more discipline when children are younger might produce better adjusted youngsters later on.

But there is a great difference between just a quick sharp smack on the upper leg or behind, and a beating. A beating is abuse which no one would agree with. As has been said, children gain security from knowing where the boundaries are. If they are living in a loving home with clear boundaries and they only get into trouble when they transgress, then you will get a balanced individual growing up. The other thing that bothers me is how on earth will this be policed? One of the problems with the legislation we bring in is policing it. Perhaps Deputy Le Hegarat will be able to comment on this from her experience as a professional policeman. As a Centenier, I would really find it quite difficult to police it. You know, who am I believing? Is it the child that rings up the equivalent of Childline and says: "I have been smacked" or is it the parent who explains that the child was doing something and had been told not to? I do not know. No, I think this is just the Government deciding to be a parent and, I am sorry, it is not the role of Government to be a parent.

13.1.11 The Deputy of St. Peter:

I think somebody ought to support Senator Ferguson. I am absolutely clear any excessive bullying, physical violence, torture, undue suffering to children is abhorrent and should never, ever happen. I take that absolutely. But what we are talking about here is a quick slap, as we repeated ourselves. The best description I have come across for this is reasonable chastisement. Now if I have understood the Attorney General correctly, if we rescind this law then it will be a criminal offence to slap a child with a reasonable chastisement; i.e., very minor, no pain, no bruising; excessive pain or bruising. I also say that I considered my signature of Senator Mézec's vote carefully before even considering standing up. Anyway, upon reading this law that Deputy Le Hegarat wishes to rescind, the first thing I did is the family WhatsApp group. So I asked a simple question to my kids: "Do you remember your mother or I smacking you?" and my daughter said: "Not very often" and has no specific recollections. The follow-up questions: "Did it have a lasting psychological effect?" because this is the essence of it, and: "Should it be a criminal offence?" She confirmed it had no lasting effect, big relief. Obviously she is against physical force and bruising a child and causing pain, *et cetera*. I think we all agree with, but it should not be a criminal offence. In fact I think she must be a bit bored at work at the moment because her interest was piqued and she went off and did a survey across the whole company. They are primarily 20 and 30 year-olds working in IKEA business in London; same age as Senator Mézec and the comments were fascinating. Nearly all were smacked as children; none experiencing lasting effect, and only one suggested it should be a criminal offence; but there were reservations around that. A number said they felt they would use it as a disciplinary measure within their own children. The 20 or 30 year-olds still fresh recollections of childhood, I assume, and considering parenthood themselves going forward. So I have asked many people I know in the Parish and beyond, and it has been mentioned; the older generation like the Deputy of St. Mary will do the "it happened to me and had no harm" attitude. As the Deputy of St. John said, the only difference there was it was slippers and it was canes and it was a rap around your knuckles and it was actual physical violence, and I totally get all of that. At my boarding school you knew somebody had been caned because they had blood and a torn shirt there because the cane whipped round your backside and the effect went to rip around there and cut you, and that was particularly aggressive stuff. Now I am not going to condone this behaviour, of course not. But I am delighted that the process has been made after 45 years to where we have got to now: no lasting effect that I have come across and nobody has demonstrated any lasting effect. Interestingly, I spoke to one teenage girl who could not understand why this is being considered - a highly intelligent girl. She said when she got a little smack on the backside it was a signal that she had totally overstepped the mark. It made the point that she had been particularly naughty, and she respected it. I think she is about 16 years old now, so it is a pretty current kind of stance. In summary, no one has been traumatised that I have come across.

[16:45]

There will be exceptions to this; I get that. But it does mean being traumatised by a gentle slap of hands; you know, the considerate stuff that I mentioned before. I think in many cases this is more symbolic than painful. One very interesting conversation was with a teaching sister at employment schools - quite important. She suggested that parents already struggle with what they can and cannot do to discipline their children. To that end they expect the teachers at school to do that job for them. This will only add to the number of parents offloading their fundamental parental responsibility to the schools. That I took very, very seriously from the current teaching system. Anyway there is lots of evidence to suggest that this would have a rather negative effect, and I know there is a huge amount being talked about contrary to that. I think Sweden, which as we know the first country to adopt this in 1979, is a useful case study because there is more data round there to collect. They argue that reasonable chastisement teaches children that violence is acceptable. That is the argument against. On this basis we might expect the figures to show lower levels of violence among children after the ban. That would be a logical conclusion that most people have presented. In fact, the figures from Sweden show the opposite to be true. Child on child violence has increased by a staggering - and I have questioned this - 1,791 per cent between 1984 and 2010. Now in this critique the Swedish attitudes of parenting psychiatrist David Eberhard argues that following the ban parents have become more scared to say no to anything. Studies show that after the ban children became significantly less accepting of any parental rights to discipline them through grounding or other restrictions. In the year 2000 only 4 per cent of teens felt that their parents had the right to threaten to forfeit something; i.e. take some sort of control on discipline: 4 per cent in 2000, down from 39 percent 5 years older. This effectively is taking away the parents' right to impose some sort of punishment on them, not of a brutal nature as we have been discussing. Again I am going to follow on with Senator Ferguson as to how we are going to police this. The likelihood is they are going to be reported by members of the public, either within the family unit or outside, and I think it is highly likely there will be increased burden on social services, diluting their efforts from those that really are in most need. So I take a couple of scenarios. We have already mentioned Childlines, but whenever my children were told that they were going to have some sort of privileges withdrawn or anything slightly naughty they just immediately shout: "Double 1, double 1, 1" and we all knew that was the Childline. The kids are told this at schools; there is education about that and they are encouraged to use it - quite rightly so. It is up on the notice boards, *et cetera*. So therefore if this law is rescinded, I am sure - and again, I would expect it to happen - there will be an awareness campaign through the schools. Kids will be told that if they are smacked by their parents, those parents have committed a crime. That will force parents who administer the gentle smack to then ensure that the child does not tell. Now most likely, and I can imagine the scenario, when an elder child threatens to report on a younger child being slapped, I can see this is a more likely scenario. If relationships are tense within the family, this could lead to parents finding increasingly unsavoury ways of silencing the child. We know that as a behaviour that we have seen in most child abuse, the results of which could be far, far worse than the usual spank. This would add tension to the family unit which would result in irreparable damage. So let us imagine the situation of petty rivalry among neighbours or at the school gates. I remember it quite clearly at the primary school in Wandsworth where my parents were. There was phenomenal competitive pressure in order to get your child into that particular school because it was all within the boundary, and people would go to the length of renting a flat in the area so they had an address so they could register the child in that particular area. People go to enormous lengths and I do not think this is an unreasonable scenario. So one witnesses a little slap being delivered and then reports it to the police. Now what is more likely is that they would use that to their particular advantage for all the wrong reasons. Ultimately bullying or blackmail or whatever, but the school had better position themselves, their children, than elsewhere. I can see that as a very real scenario because I have witnessed such behaviour. I fear that the problem with this is it will affect the majority of regular, decent, hard-working and loving families and not help the very small minority that I can clearly see that Deputy Le Hegarat is trying to protect, and quite rightly so. You see, all this signal will do is interfere with family life, intrude and mandate on how others should bring up children.

Having children is the most rewarding, exhausting, expensive in my case, and ultimately fulfilling part of my life, a view shared by many others. We do not need to be made any harder and certainly not add to the risks and woes of the most beautiful responsibility that can be bestowed. So I am asking you to vote against this proposition on behalf of the majority of loving families in this particular Island who care desperately about their children and their upbringing, and allow them the freedom to get on with this huge responsibility of raising a family in the best way that they know.

The Bailiff:

Can I just say something, because I was not quite clear from the last speaker whether the impression was given that this proposition if adopted would repeal the legislation? Just for the avoidance of doubt, it does not. It is, as it were, a proposition in principle which I request the Council of Ministers to bring forward any necessary legislative amendments.

13.1.12 The Attorney General:

I would like to say one or 2 things if I may, Sir, arising out of the speech made by the last 2 Members and also following on from the answer I gave where I referred to both adults and children enjoying the same protection from assaults if this proposition is adopted and the law then amended. But of course my answer was short, but I would not want it to be read from that that a consequence of that is that parents are unable to touch their children, because of course adults are immune from being touched by any other person - any unwanted touching amounts to at least a civil assault and in some circumstances a criminal assault. The starting point for our consideration today has of course been Article 19 of the U.N. Convention on the Rights of the Child which requires all States parties to take appropriate legislative measures to protect the child from all forms of physical and mental violence, and that has been interpreted as including smacking and what is currently permitted by Article 7 under the law. But Article 19 and the associated Articles have been considered at some length by the Committee on the Rights of the Child, which published their comment, No. 8(2006), on Article 19 and connected Articles. There are 2 sections which I think will be of assistance for Members to be aware of in relation to matters recently canvassed. The first starts at paragraph 13 in which the committee says that: "In rejecting any justification of violence and humiliation as forms of punishment for children, the committee is not in any sense rejecting the positive concept of discipline. The healthy development of children depends on parents and other adults for necessary guidance and direction in line with the children's evolving capacities to assist their growth toward responsible life in society. The committee recognises that parenting and caring for children, especially babies and young children, demand frequent physical actions and interventions to protect them. This is quite distinct from the deliberate and punitive use of force to cause some degree of pain discomfort or humiliation. As adults we know for ourselves the difference between a protective physical action and a punitive assault. It is no more difficult to make a distinction in relation to actions involving children. The law in all states explicitly or implicitly allows for the use of non-punitive and necessary force to protect people. The committee recognises that there are exceptional circumstances in which teachers and others, for example those working with children in institutions and with children in conflict with the law, may be confronted by dangerous behaviour, which justifies use of reasonable restraint to control it. Here too there is a clear distinction between the use of force motivated by the need to protect a child or others and the use of force to punish." Finally, later on in the report at paragraph 40 onwards, the committee deals with implementation of prohibition on corporal punishment and similar punishment. At paragraph 40 the committee says: "The principle of equal protection of children and adults from assault including within the family does not mean that all cases of corporal punishment of children by their parents that come to light should lead to prosecution of parents. Children's dependent status and the unique intimacy of family relations demand that decisions to prosecute parents, or to formally intervene in the family in other ways, should be taken with very great care. Prosecuting parents is in most cases unlikely to be in their children's best interests. It is the committee's view that prosecution and other formal interventions, for example to

remove the child or remove the perpetrator, should only proceed when they are regarded both as necessary to protect the child from significant harm and as being in the best interests of the affected child. The affected child's views should be given due weight, according to his or her age and maturity demand." Finally: "Advice and training for all those involved in child protection systems, including the police, prosecuting authorities and the courts, should underline this approach to enforcement of the law."

13.1.13 Deputy K.F. Morel:

I will be very short indeed. I just wanted to say that, in response to Senator Ferguson, when I first read Deputy Le Hegarat's proposal, I too had that sense of this is the nanny state just telling us what to do. But then came for me what is a simple matter of logic, how come we are allowed to do this to children but we are not allowed to do it to adults? Last I checked some 3 or 4 year-old child is much, much smaller, much, much weaker, much more vulnerable than I am as a full-grown adult. I have found it personally impossible to get beyond that logic; it just says no. If adults are protected from this behaviour then children should also be protected from this behaviour. Also, when addressing that nanny state idea, too often when people say that: "It did not harm me" we forget that most people saying that are in the mainstream, they are not at the fringes; they are not at the extremes where the damaging behaviour does take place and, really, when I think about do I want to take away the law that allows us to smack children, as a parent who is very much in the mainstream I think it is a small price to pay to help protect those children whose parents are at the extremes. So for those 2 reasons it is very difficult to argue against, in spite of the Deputy of St. Peter's welcome speech there, but so for those 2 reasons I do find it difficult and I urge everyone in this Assembly to support that proposition.

13.1.14 Deputy J.H. Perchard:

Deputy Morel covered the points I was going to make but I would just like to say I completely support this proposition and I implore the Assembly to do the same.

13.1.15 Deputy R.J. Ward:

Can I thank the Attorney General for bringing in some logic to what was becoming a slightly Pythonesque debate? I do not believe that this change will prevent restraining children to prevent them harming others or themselves; it will not create prosecution from accidental incidents of reaching out and touching a child's hand; and it does not stop the protective reflex of a parent to take their child away from danger. I am a parent; I have 2 children and I fully understand how difficult parenting is. What this does is gives us a cultural change in the way that we treat our children and indeed in our wider society. Violence does breed violence and we need to recognise that and I do not want to live in a society that condones violence in any shape or form. We cannot physically attack each other, it is illegal, we should not be able to physically attack our children. It gives a clear cultural driver, a non-violent parental approach, and I fully support the comments that have been made about the need for support for our parents. This is an integral part of us as an Island putting our children first to support our parenting, to give them the right standards, to give the right ideas, and that support is not the nanny state, it is a civilised and thoughtful and caring society. That is what we need to be developing and that is what we need to be living. This sends a clear message that Jersey is a caring society that puts our children first and that, regardless of how difficult it is as a parent in those very difficult times, society will support you in not smacking your children and that will be seen as the right thing to do. That is a very important thing for us to do.

[17:00]

It enables parents to be the living carers that we all aspire to be because our children are the most important thing in our lives. I am incredibly protective towards my children and I am risk-averse, as my wife refers to me as, when it comes to my children. A society, which enables me to do that and make sure that, when I discipline them, it is in the right way and it gives them the right standards

and the right social mores, it is exactly what this enables us to. I urge you to support this piece of change.

13.1.16 Senator K.L. Moore:

Without wanting to labour the point, I did just want to share an excerpt from a novel that I am sure Members are familiar with, Hilary Mantel's book *Wolf Hall*, which chronicles the life of Thomas Cromwell set in the 16th century and it starts with a scene following the young Thomas receiving a severe beating from his father, which I think is a common occurrence in his life. He then runs away and finds himself on a boat with a Dutch crew and he feels he has to be honest in explaining to them why this minor is trying to get to Europe and escape his parents because he does not want them to think he is a thief: "After the explanation the Dutch man translates what his crew members are saying to him and he said: 'We are saying the English are cruel to their children and cold-hearted. A child must stand if his father comes in the room, always the child should say very correctly: "My father, sir, and madam, my mother".' He is surprised. Are there people in the world who are not cruel to their children?" Those words from Hilary Mantel really struck a chord with me when considering this proposition and I very much commend the proactive efforts of Deputy Le Hegarat in bringing this to us. Family life is a child's first experiences of normal. You could say there is no such thing as a normal family; we all have our quirks. However, bringing a child to maturity in a family situation where violence is common can have very dire consequences and there have been many excellent speeches that have highlighted that but you, Sir, probably sadly in the courts often see the direst of consequences of those childhood experiences in the crimes that can sometimes be caused and there often is a route back to family experience and the young life of an individual that leads to their ultimate adult behaviours. So I would certainly commend the House to support this proposition. It is our opportunity to break cycles within families and communities but also to step away and show our Jersey way as opposed to that of the English or even the Welsh who I believe are also to follow in this step in outlawing such actions.

13.1.17 Deputy J.A. Martin of St. Helier:

I will be brief, and it is just Senator Ferguson brought me to my feet. We are where we are. We have had some excellent speeches today but when I heard Senator Ferguson about this reasonable smack or this reasonable slap and we are going to be criminalising parents, how do you know when that is reasonable? So you are a new mum, well you would not smack your baby, would you? But you have a little toddler about 2, how much force do you use that first time to see whether it is reasonable and not going to mark that child? Do you know? Would your husband know because he is going to probably be a lot bigger than you and again a lot bigger than that baby? The Minister for Education said there is no teaching for parents; you do need to look at other ways. I am absolutely amazed at the figures that the Deputy of St. Peter used to say that, once the Swedish took away slapping, violence on child violence went up by over 1,000 per cent. They obviously did not put in the other areas of how do you teach a parent to parent without having to resort to violence because it is true you do not have it be done to anybody else, so if people are small you do not expect your partner to hit you anymore. It used to be okay, did it not; he would come home on a Saturday night and slap the wife. No. We have moved on from that and this is where we need to teach because the rule is first do no harm and you do not know when you touch a little child, as I started, your own strength sometimes. These are loving people but we need to turn the clock fully around, commend Deputy Le Hegarat's proposition and I would hope we could get a full backing for it.

The Bailiff:

Does any other Member wish to speak? I call on Deputy Le Hegarat to reply.

13.1.18 Deputy M.R. Le Hegarat:

Firstly, I will say thank you very much to the A.G. (Attorney General) to maybe helping Members within the Assembly to understand fully some of the legislative impacts of this proposition. Even though I have had experience of legislation in the past myself it is quite complicated. I will thank all of those - there are quite a lot - so I will say thank you to those who are supporting the proposition and just a few points in relation to what those who oppose the proposition have said. Firstly, Senator Ferguson said about the elderly being protected. They are protected. We cannot smack or hit our elderly relatives and, if you look at it, families now are changing and a lot of people are looking after their elderly relatives with mental health issues and everything else. We would not think it was acceptable to smack somebody because they do not understand what we are saying as in all of us in later years; sometimes our understanding is not as good. You could say in a way that, as we get older, we do almost go back to our childhood and we do not understand. We forget things. We do not allow people to slap each other so why would we do it to a child? I just do not see the arguments. The evidence of the N.S.P.C.C., and let me bring something to your attention and this is the driver for me or this is where it kicked off, the N.S.P.C.C. spoke to me a couple of weeks ago to support my proposition and I said to the person who made contact with me that it was the N.S.P.C.C. that started this for me. That was not last week, last year, 10 years ago, this was as a newly-appointed police officer I went on my vulnerable victims course. What was that about? It was about dealing with domestic violence and children; that is what that course was about. That was in the early 1990s because it was within the first 2 years of my service. I went along to this course. I was probably the minority, I might have even been the only one who had never been smacked as a child and did not think it was right to smack a child all of those years ago. Ironically, the N.S.P.C.C. then were saying the evidence showed that this was not right. So it is not yesterday, today, you are talking of 30 or 40 years ago that people and the evidence were showing that to smack a child or corporal punishment, smacking, whatever you like to call it, was not appropriate and it does not work. So let us stick with that “it does not work” scenario and let us get rid of it out of our legislation. Because everyone else is protected so let us also protect our children in the same way. **[Approbation]** Can I call for the appel please?

The Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the proposition of Deputy Le Hegarat for the repeal of Article 79 of the Children (Jersey) Law 2002 and I ask the Greffier to open the voting.

POUR: 38		CONTRE: 3		ABSTAIN: 0
Senator L.J. Farnham		Senator S.C. Ferguson		
Senator T.A. Vallois		Deputy G.C.U. Guida (L)		
Senator K.L. Moore		Deputy of St. Peter		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
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				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				

Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				

Deputy M. Tadier:

Is it in order to ask for those who did not vote but who are not en défaut or malade to be listed who were not present for the vote?

The Bailiff:

That has never been done previously but people will be able to work it out no doubt if they look at the Hansard reports, Deputy.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

14. Deputy R. Labey (Chairman, Privileges and Procedures Committee):

Just referring to the order of business on 29th January - the next sitting - as we know Deputy Wickenden has withdrawn P.100 and I expect to withdraw P.103. It is something I inherited and I feel it needs extra work with the possible establishment of a sub-committee with a member of the Executive and perhaps the president of the Chairmen's Committee. So we are going to have to take a look at that again and I expect to withdraw that proposition. But I take with one hand and give with another. On the P.5, Future Hospital: rescindment of Gloucester Street as preferred site, this has been lodged today and will be on the order of business for 12th February, so there is an extra one for 12th February. Other than that, as is.

The Bailiff:

The States therefore now stand adjourned until 9.30 a.m. on 29th January.

ADJOURNMENT

[17:11]