

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 23rd OCTOBER 2012**

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**ADJOURNMENT.....141**

[9:30]

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1. THE CONNÉTABLE OF ST. PETER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING RECOMMENDATIONS FOR EXCEPTIONS OR AMENDMENTS TO THE ISLAND PLAN 2011:**

##### **Question**

Following his statement on 9th October 2012 that he would only bring forward applications that met the policies set out in the 2011 Island Plan, will the Minister bring forward to this Assembly for approval recommendations for exceptions to policy or amendments to policies that will allow his Department to play its part in meeting economic stimulus required to prevent further job losses in the construction and supply industries and, if not, why not?

##### **Answer**

This question appears to imply that the Island Plan and my Department do not support the economy and might be responsible for job losses in the construction and supply industries. I think these suggestions are unfair and unfounded.

Following a rigorous and consultative process, the Island Plan 2011 was approved by the States in June 2011. The policies of the Island Plan have been carefully formulated to achieve the sustainable development of the Island with a balance between social, environmental and economic considerations. The Island Plan provides a framework of policies and proposals that ensure that land is used wisely to protect Jersey's unique character whilst meeting the needs of Islanders now and in the future. My department and I are committed to supporting the economy, and will continue to apply Island Plan policies fairly and consistency.

The suggestion, by some, that my Department is holding back the construction industry does not reflect reality. Planning approval exists for a number of commercial and domestic schemes where construction has yet to start. We estimate that approval exists for over eight hundred thousand square feet of office space and over 1500 dwellings. It may be other factors, such as market confidence, demand, and financing opportunities that are holding back development.

Together with my department, I will continue to support the development and enhancement of our island and will consider all planning applications received on their own merit, balancing the needs of all stake-holder and the broader environmental considerations. Article 19/3 of the Planning and Building Law (Jersey) 2002 allows me, as Minister for Planning and Environment, to make decisions which are exceptions to policy. There is a formal process for this and I only allow exceptions when there is sufficient justification to do so.

#### **1.2 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE REGULATION OF ADVERTISEMENTS ON JERSEY TELECOM SUBSIDIARY 'JERSEY INSIGHT':**

##### **Question**



Is the Minister, as the representative of the shareholder, aware that advertisements, such as a recent one advertising puppies for sale, may be appearing on the Jersey Telecom subsidiary 'Jersey Insight' that may be representing fraudulent intent?

Does the Minister consider the lack of regulation a potential problem that may cause reputational damage to the Island?

### **Answer**

The classified section of JT Insight brings buyers and sellers together across a broad range of categories which include cars, property, travel, home and garden, and pets and accessories. In order that the website remains at the heart of the Jersey community, JT does not charge for many of the advertisements placed in the classified section.

Users undertake to use the site only for lawful purposes and comply with codes of conduct and codes of practice issued by the Advertising Standards Authority and other best practice codes/regulations. If breaches, or potential breaches, of the law or relevant codes are brought to JT's attention, the offending material is immediately removed. However, it is not illegal to advertise pets for sale in Jersey, as can be seen from a cursory glance at other advertising pages in Jersey's mainstream media.

In the event of fraudulent intent, there is already a comprehensive range of common law offences and various statutes in place to protect individuals and I do not therefore see the need to put in place further regulations.

Finally, as with all online trading, and as jointly advised by JT and the States of Jersey Police, users are always advised to take care when dealing with online purchases or sales, to seek advice and not complete transactions if they have any reason for suspicion.

### **1.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE CAUSE OF SMOKE RISING FROM LA COLLETTE CHIMNEY AT 8AM ON 10TH OCTOBER 2012:**

#### **Question**

Can the Minister advise whether a thick plume of smoke seen rising from a flue on the north-west part of La Collette chimney at 8am on 10th October 2012, was caused by the Energy from Waste plant and, if so, why was this happening and what was the chemical composition of the soot?

#### **Answer**

The La Collette Chimney is used by both Jersey Electricity and the Energy for Waste (EFW) plant. On the 10th October the EFW plant was operating within its licensed emission limits. The EFW is operated in accordance with a Waste Management Licence which stipulates the maximum emissions levels from the plant. If these emission levels are outside of the licensed limits the plant is shut down and any underlying problem is rectified before the plant is started up again.

Jersey Electricity has confirmed that Diesel generating plant was being brought into service at this time in order to meet the Islands morning electricity demand. It is normal for any Diesel engine to

emit a small amount of darker smoke for a very short period on start up, and it is this that would have been noticed at around 8am on the 10th October 2012.

**1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE REINSTATEMENT OF MEMBERS' LUNCHESES ON STATES MEETING DAYS:**

**Question**

Does the Chairman consider that dispensing with members' lunches on States meeting days has been a retrograde step and, if so, would he advise what action, if any, the Committee will take towards reinstating them to allow members to get together and resolve issues that otherwise could take days or weeks?

**Answer**

The Committee will be addressing this matter as part of its broader review of States Members' facilities.

PPC commissioned an ambitious programme of work for 2012. Although reviews of the machinery of government, of Standing Orders and internal procedures, the Code of Conduct for Elected Members and of public elections legislation were given a high priority, PPC was clear that it should conduct a broad review of States Members' facilities also. Work on the highest priority matters is now well advanced, to the extent that PPC expects to have capacity to focus on its facilities review at the end of this year.

The position regarding Members' lunches was changed by the States on 24th September 2009 when it adopted the tenth amendment to the Business Plan. Free lunches for States members on meeting days and free sandwiches lunches during all meetings of Scrutiny panels, the Public Accounts Committee and the Privileges and Procedures Committee were discontinued in accordance with that decision. PPC's facilities review will revisit the issue. If it finds that dispensing with lunches has been counterproductive, the Committee will bring suitable proposals to the States in due course.

**1.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING A CHILD ABDUCTION FROM JERSEY IN 2005:**

**Question**

Would the Chief Minister advise whether he has received a briefing regarding a child abduction from Jersey in 2005 and the subsequent court cases in Norway, and, if so, would he advise what action, if any, he intends to take?

**Answer**

I can advise that I have been made aware of this issue. I have asked the Attorney General, as protector of the public interest in Jersey, to advise on this matter and will discuss with the Assistant Chief Minister for External Affairs what action, if any, might be taken, including any representations to the appropriate authorities.

In the meantime, it would not be appropriate for me as Chief Minister to comment on court cases in Norway.

**1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMPLEMENTATION OF THE US FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA):**

**Question**

Following his recent acceptance that implementation of the US Foreign Account Tax Compliance Act (FATCA) is necessary for Jersey's finance industry to remain competitive and doing so through an intergovernmental agreement is considered to be the best course of action to adopt, will the Chief Minister state whether -

- (a) Jersey has been asked by the Organisation for Economic Co-operation and Development (OECD) to join the multilateral Convention on Mutual Administrative Assistance in Tax Matters and, if so, what was Jersey's response;
- (b) the UK government has requested that Jersey should move to automatic information exchange under the EU Savings Tax Directive and, if so, what was Jersey's response; and,
- (c) the UK government has formally requested that Jersey concludes a FATCA equivalent automatic information exchange system and, if so, what was Jersey's response?

**Answer**

I have been informed that these same questions were posed of us by Mr Richard Murphy in his Blog on the 10th October. It is not my practice to respond to such Blogs but if I had my answers would have been the same as what follows –

- a) At present the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters cannot be signed by Jersey because signatories are restricted to Sovereign States. We have asked that the Convention be amended so that jurisdictions such as Jersey that, while not a Sovereign State, are fiscally autonomous can sign in their own right as they are able to do for bilateral tax information exchange agreements;
- b) Jersey's position on automatic information exchange under the EU Savings Tax Directive is well known. While committed to supporting the EU in the application of the Directive as part of our 'good neighbour' policy we have wanted to know when the EU Member States as a whole will be fully committed to automatic exchange of information before making a move in this direction. In our regular visits to Brussels we always meet with officials from the Member State that is to take on the Presidency to find out what their expectations are that the present opposition of Austria and Luxembourg to a move to automatic exchange of information will be overcome in their period of office;
- c) In correspondence at official level reference has been made by HM Treasury to their wish to consider the wider implications for information exchange arising from the signing of an intergovernmental agreement between Jersey and the USA for FATCA, and an offer has been made to meet at official level to explore this further.

## **1.7 THE CONNÉTABLE OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE USE OF METRIC MEASUREMENTS IN SOME DEPARTMENTAL REPORTS:**

### **Question**

Can the Minister advise who decided that only metric measurements like kilometres should be used in some Departmental reports?

Does the Minister consider that sea distances should be in nautical miles, land masses that cover statute in miles and meteorological forecasts shown in the Beaufort Scale and, if so, what action, if any, will the Minister take to ensure future reports use the correct measurements?

### **Answer**

I am not aware of anyone who has decided, or indeed has the authority to decide, that only metric measurements should be used in Departmental reports. It is for departments, and the authors of departmental reports, to determine which is the most appropriate measurement to use when writing reports.

If the Connétable is concerned about a specific report(s) and the consistency in the use of appropriate measurements within the report(s) perhaps he could advise me and I will look into it.

## **1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE FUNDING OF TRAVEL TO AND FROM MEDICAL TREATMENT OFF-ISLAND:**

### **Question**

Following her responses to an oral question on funding the costs of travel to and from medical treatment off-Island on 9th October 2012, and in the light of her plans to make increased use of service level agreements with off-Island organisations to deliver specialist treatments, will the Minister –

- (a) inform members what the level of funding of patient travel for off-Island treatment was in 2010 and 2011;
- (b) state what growth in off-Island treatment is predicted in 2013, 2014 and 2015; and,
- (c) assure members that sufficient funding has been built into the patient travel budget for 2013 and into the MTFP for 2014 and 2015?

Notwithstanding the pending review of travel costs, will she further assure members that:

- (i) when wheelchair users have to travel off-Island for treatment, the travel costs of their carer/companion will also normally be met;
- (ii) when an early morning appointment cannot be avoided, reasonable overnight accommodation costs will be met, including those for a carer;
- (iii) the reasonable travel costs to and from airport and hospital will include the use of taxis; and,
- (iv) where hardship can be shown, travel costs will be paid in advance?

## Answer

HSSD plans to ensure that all service level agreement provide value of money. This will not necessarily result in any increase in the number of such agreements.

- (a) The level of patient funding for off-Island travel was £1.42m in 2010 and £1.6m in 2011.
- (b) The 2013 budget for UK Treatments is forecast to be £11.3m. An increase over the 2012 budget of £1.3m (13%).
- (c) As part of HSSD's budget setting procedures funding for patient travel has been built into the budget 2013, 2014 and 2015. In accordance with standard practice levels of funding are forecast based on analysis of previous activity and the assumptions about future trends.
- (i) As set out in the HSSD Travel policy, each individual, whether or not a wheelchair users, is assessed by the treating clinician to determine whether an escort is required for off-Island travel. This decision is based on clinical findings. Should an escort be required their travel costs will be met in accordance with the criteria set out in the Policy.
- (ii) HSSD's own booking procedures ensure all off-Island appointments are made for the late morning or the early afternoon. This is done in order to negate the requirement for overnight accommodation.

HSSD cannot recall any incident over the last 2 years when an appointment has been made by HSSD which has necessitated a patient and escort to stay overnight prior to an appointment. Although, some have as a matter of personal preference.

Should a patient require two appointments on two consecutive days, then accommodation costs will be funded, should the individual meet the criteria set out in the Policy.

- (iii) HSSD will not reimburse taxi fares in Jersey, either to the Hospital or the Airport, except in exceptional circumstances where there is no viable alternative transport. Any refunds will be in accordance with the criteria set out in the Policy.

HSSD does not accept that taxi fares are an appropriate or proportionate use of funds, where use of a taxi is based on patient preference.

- (iv) HSSD does not have the systems or facilities in place to fund travel costs in advance. In the case of extreme hardship, if an individual should require funds in advance, HSSD's Travel Office will advise the individual to seek help from the Department of Social Security.

## **1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE CONTRACTUAL TERMS OFFERED TO BUS DRIVERS BY CT PLUS:**

### Question

Does the Minister now accept that significant changes to the terms and conditions of bus drivers have been made in the contracts offered by CTPlus, in respect of the removal of basic overtime

rate, changes from a 6-day rota to 5/7 days, making Sunday working compulsory; and introducing a 54 hour maximum working week?

What justification, if any, does the Minister have for his statement to the Assembly that “the terms and conditions are substantively the same”?

Will the Minister inform members of the exact wording on the tender documents which referred to the transfer of staff and their terms and conditions?

What evidence does the Minister have to support the following statements he has made in relation to this issue –

- “a workforce controlled by fear and favour”;
- “despite the hindrance of the previous staff transfer. We must not allow the same political involvement to stifle a contractor again”; and,
- “In general CTPlus’s sickness provision is higher than Connex”;

### **Answer**

For reasons set out in this response, after providing this response I do not intend to enter into further public debate or speculation about these matters.

I have set out below information about the old contract, the tender and the successful bid in some detail in order to clarify the background to and the context of the present position.

### **The 2002 Connex Contract**

1. Connex Transport Jersey Ltd ("Connex") is the existing Jersey bus service provider under the terms of a contract between Connex and the Public Services Committee (hereafter called "Transport and Technical Services or TTS") dated 13th November 2002 (the "Connex Contract").
2. Clause 18.3 of the Connex Contract states:  
"On expiry of the Contract or early termination for whatever reason, the Committee shall or shall procure that any other body issuing tender documentation shall require in any tender documentation that the incoming service provider submit proposals that ensure that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation are taken on by the incoming service provider on the same terms and conditions as apply at the date of the issue of any tender documentation and use its reasonable endeavours to facilitate the transfer of the staff from the Contractor to the incoming service provider provided always that the Contractor shall fully co-operate with both the Committee and the incoming service provider by providing them both with such employee information as is reasonably necessary for the Committee to compile any tender documentation and for bidders properly to price their bids and for the incoming service provider to take on the Contractor's staff."
3. There were two key elements to Clause 18.3, namely that:
  - (a) TTS should require in any tender documentation that the incoming service provider submitted proposals that ensured that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation were taken on by the incoming service provider on the same terms and conditions as applied at the date of the issue of any tender documentation (June 2011); and

(b) TTS should use its reasonable endeavours to facilitate the transfer of the staff from the Contractor (Connex) to the incoming service provider.

4. The latter obligation was subject to the requirement that Connex fully co-operated with both TTS and the incoming service provider by providing them both with such employee information as was reasonably necessary for TTS to compile any tender documentation, for bidders properly to price their bids and for the incoming service provider to take on Connex staff.

### **The 1st Stage Tender Instructions ("1<sup>st</sup> Stage Tender")**

5. The 1st Stage Tender included the following:

“...the Tenderer is required to provide a proposal ( part of the Migration Statement see item 3.15) for the transfer of all the existing operator’s staff based on the terms and conditions at the time of this tender except for any Director or the General Manager The Employer has agreed to use its reasonable endeavours to facilitate the transfer of staff and provided such employee information for the Tenderer to price the Tender.”

“The Tenderer shall submit an outline Method Statement setting out a programme and proposals for setting up the 2013 Contract which shall adequately reflect how they will transfer existing staff ( excluding any Director or the General Manger of the existing operator) and or obtain suitable staff, vehicles and all necessary equipment to commence the operation on the 1st January 2013”

“ ...The Tenderers attention is drawn to the fact that there is no requirement under the 2013 Contract for any Director or the General Manager of the existing operator to be included in any proposal for the transfer of existing staff. The information noted above and the terms and conditions to be found in Appendix G have been provided by the existing operator to the Employer and provided to the Tenderer in good faith....”

### **The successful tenderer's submission**

6. HCT Group is the parent company of CT Plus Jersey Limited ("CT Plus"). HCT Group's response to the second stage of the tender process was submitted under covering letter dated 14 June 2012. This response was submitted on the basis of a "seamless transfer of staff". HCT Group stated:

"...we will not change any of the staff terms and conditions we have been made aware of in the first stage tender documents, for the first nine months of the contract."

7. I took the decision to award the 2013 Bus Operator Contract (the "2013 Contract") to HCT Group, as detailed in the decision summary dated 04 July 2012. The 2013 Contract is due to commence on 1 January 2013 (the "Commencement Date") and will be operated by CT Plus. HCT Group and TTS have entered into a letter of intent, dated 18th July 2012, in relation to the 2013 Contract. The 2013 Contract is expected to be signed shortly.
8. Accordingly, in July 2012 the requirements of the first obligation on TTS under Clause 18.3 had been fully met by TTS.

### **Facilitating a transfer: mediation meeting**

9. TTS has worked around the clock with the unions, staff representatives, Connex and CT Plus to try and facilitate a transfer of staff. On 9th October 2012 TTS asked staff representatives, Connex and CT Plus to attend an urgent JACS facilitated mediation meeting the next day, 10

October 2012, in order to see how best matters could be addressed and progressed. TTS was anxious to ensure that the best possible arrangements were put in place for staff. Concerns had been raised about new proposals put forward by CT Plus for modernised terms and conditions and a "clean break" arrangement for employment under the new contract, rather than a transfer with continuity of employment.

10. The meeting took place on 10th October 2012 and was extremely constructive. At the meeting it was agreed that eligible staff would transfer with preserved continuity of employment, for future statutory redundancy, unfair dismissal and notice purposes. The transfer would be on the basis of new terms and conditions in order to ensure that the present needs of Islanders were met, in accordance with the provisions of the 2010 Sustainable Transport Policy. A number of changes were agreed to enhance the terms and conditions on offer.
11. JACS issued the following statement about the meeting:

"Following a very useful meeting of all parties involved in the provision of a bus service for Jersey it was agreed that all parties present would immediately encourage and facilitate meetings between existing Connex employees and representatives of CT Plus on a one to one basis within the next 10 days.

The purpose of these one to one meetings is to allow CT Plus representatives to meet with their potential employees, explain the way in which CT Plus intended to work in the Island and to invite all staff to accept contracts of employment with CT Plus under the terms agreed at the mediation meeting held on 10 October 2012.

All parties present agreed that while arrangements as above are finalized no further public statements will be issued as it is now a matter of arranging for the Connex employees to determine whether they wish to join CT Plus from January 2013."

### **Current position**

12. Since the meeting on 10th October 2012 Connex, CT Plus and TTS have continued to work together in relation to arrangements for the transfer of staff from Connex to CT Plus. A number of positive staff meetings have taken place and CT Plus has confirmed that it is looking forward to taking on eligible Connex staff.
13. On 19th October 2012, TTS reiterated to CT Plus that it was essential that all key terms and conditions (such as rates of basic pay) of transferring staff were either mirrored or improved upon. CT Plus agreed further to enhance the terms and conditions that were being offered to transferring staff.
14. TTS is pleased that, following extensive discussions with Connex, CT Plus and the union, CT plus is now offering eligible driving staff employment on terms which include the following:
  - CT Plus basic hourly rate of pay for Monday to Friday working hours is a slight increase over the existing rate at tender (the contractual benchmark).
  - CT Plus overtime rate Monday to Friday is the same as their basic hourly rate, which is less than tender (see point 15 below)
  - CT Plus basic rates for Saturdays are higher than at tender.
  - CT Plus basic rates for Sunday are equal to the overtime rates at the time of tender
  - CT Plus basic rates for Public and Bank Holidays are higher than the overtime rates paid at the time of tender.
  - The CT Plus rostered working week of 5 days in 7 is an improvement on the present 6 days in 7, typically giving 47 more rest days per year to a driver.
  - The basic working week of 39 hours remains the same



- CT Plus's annual salary for the contracted basic 39 hours will be slightly higher than at tender.
  - CT Plus's sickness provision for the first 4 years of service is higher than at tender.
  - Healthcare and pension payments remain the same.
  - 5 weeks paid holiday: remains the same.
  - Paid meal breaks will continue.
  - No probation period will apply to transferring staff
  - Staff transfer with preserved continuity of service for future statutory redundancy, unfair dismissal and notice purposes.
15. Access to overtime is at management's discretion, is voluntary, and is not a contractual right. CT Plus had anticipated removal of overtime from rosters as it is very expensive. However as CT Plus talked to staff it became clear that some staff, although not a majority, did want to work more than approximately 39 hours per week. If CT Plus had a higher overtime rate for Monday to Friday then the need to reduce or eliminate overtime would not have been addressed. Having a flat rate enables CT Plus to address this issue while also enabling drivers to work more hours, up to the maximum of 54 and earn accordingly (circa £40,000).
  16. For information, the 54 hour working week maximum being applied to this new contract has been introduced for health and safety reasons to protect both the public and drivers, in accordance with advice we have received from the Health & Safety Inspectorate. It is in accordance with recognised UK best practice and consistent with the Unite Union's current 'A Safer Way' campaign.
  17. Staff at TTS continues to work tirelessly to facilitate the transfer of staff from Connex to CT Plus on 1st January 2013.

#### **Additional questions raised**

18. I have been asked a number of additional questions by Deputy Southern. My responses are set out below in the interests of providing one comprehensive answer.
19. I can confirm that the contractual terms offered to the bus drivers on 4th October 2012 were provided to us on the 24th September 2012. The Department has continued to work closely with both CT Plus and Connex since receiving this information, in order to facilitate the transfer of staff to CT Plus. A number of meetings have taken place between the Department, Connex and CT Plus, including the JACS mediation meeting that the Department requested on 10 October 2012. Please see paragraphs 9-14 above. The process has been protracted for a number of reasons including the fact that the staff in question are not employed by either the Department or CT Plus and so much of the communication has to be via Connex, as current employer.
20. The deadline for confirmation that eligible drivers wished to transfer was set down because CT Plus need to complete checks, including CRB checks, on existing drivers and on any new drivers that it may be necessary to recruit and train. These checks need to be completed well in advance of the commencement of the new bus service in January 2013. This is not a question of an "ultimatum". It is about the need of the incoming contractor to ensure that it has carried out appropriate checks, not least to protect the safety of the public of the Island. A deadline had to be set down if matters were to be concluded within the relevant timescales.
21. The Employment Relations Code of Practice on Trade Union Recognition relates to employees and their employer. CT Plus is not yet the employer of staff who are eligible to transfer. If staff who join CT Plus wish their employer to recognise their representatives or their union, then of course they have the absolute right to seek such recognition under the relevant Code of Practice of the Employment Relations Law. The question of union recognition by an employer is not a matter for the Minister. It is a matter for the employer. CT Plus has already met with staff representatives, at the mediation meeting, and it is keen to engage fully with the union at

an appropriate time, once staff have transferred. For information, CT Plus have just signed a recognition agreement with Unite in Guernsey, the first within the bus service there, and they have instigated union recognition in other of their depots. CT Plus have publicly stated that they believe that where a union works well it can be a source of good in the workplace.

22. Under Clause 18.3 of the Connex Contract I am obliged to use my reasonable endeavours to facilitate the transfer of staff. That is exactly what my officers have been doing and continue to do with the assistance of the outgoing and incoming operators, JACS and staff representatives. While the situation remains dynamic I am confident of a good outcome.
23. Historic issues arising in relation to the previous change in contractor have been considered and addressed during the full course of this tender process, from 2011 onwards. It is important to note that on a service contract such as this, where the States are not the employer or owner of the existing contractor's assets, there will always be risks that it may not be possible to remove completely. To address these risks, the full co-operation of all the parties is required and my officers have been and continue to address the remaining issues.

**Ongoing work: need to allow the parties to move forward**

24. Given the agreement reached at the mediation meeting on 10 October 2012, it would not be appropriate for me to go into further detail about matters which the relevant parties are now addressing together.

**1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE TRANSFER OF STAFF TO CTPLUS:**

**Question**

When did the Department/Minister become aware of the contractual terms offered to the bus drivers on 4th October 2012?

What input did the Department have to that contract and what meetings have been held between CTPlus, the Department and employee representatives to discuss it?

Does the Minister consider that the imposition of the requirement that this contract be agreed by all Connex drivers individually by 12th October 2012 (now 19th) was reasonable, given that it was in direct contravention of the rights of the recognised drivers' representatives in the Code of Practice on trade union recognition under the Employment Relations (Jersey) Law 2007?

Will the Minister condemn the use of this ultimatum as unhelpful?

What discussions has the Minister had, or will he have with CTPlus about union recognition?

To what extent does the Minister consider that he has delivered on the Chief Minister's public commitment to the highest TUPE standards on employee transfer in Jersey?

What responsibility does the Minister accept for his failure to "learn from the trials and tribulations of the previous contact change and to address and minimise the risks" associated with the transfer process this time?

**Answer**

For reasons set out in this response, after providing this response I do not intend to enter into further public debate or speculation about these matters.

I have set out below information about the old contract, the tender and the successful bid in some detail in order to clarify the background to and the context of the present position.

### **The 2002 Connex Contract**

1. Connex Transport Jersey Ltd ("Connex") is the existing Jersey bus service provider under the terms of a contract between Connex and the Public Services Committee (hereafter called "Transport and Technical Services or TTS") dated 13 November 2002 (the "Connex Contract").
2. Clause 18.3 of the Connex Contract states:  
"On expiry of the Contract or early termination for whatever reason, the Committee shall or shall procure that any other body issuing tender documentation shall require in any tender documentation that the incoming service provider submit proposals that ensure that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation are taken on by the incoming service provider on the same terms and conditions as apply at the date of the issue of any tender documentation and use its reasonable endeavours to facilitate the transfer of the staff from the Contractor to the incoming service provider provided always that the Contractor shall fully co-operate with both the Committee and the incoming service provider by providing them both with such employee information as is reasonably necessary for the Committee to compile any tender documentation and for bidders properly to price their bids and for the incoming service provider to take on the Contractor's staff."
3. There were two key elements to Clause 18.3, namely that:
  - (c) TTS should require in any tender documentation that the incoming service provider submitted proposals that ensured that all of the Contractor's staff, with the exception of the general manager and any director of the Contractor, as at the date of the issue of any tender documentation were taken on by the incoming service provider on the same terms and conditions as applied at the date of the issue of any tender documentation (June 2011); and
  - (d) TTS should use its reasonable endeavours to facilitate the transfer of the staff from the Contractor (Connex) to the incoming service provider.
4. The latter obligation was subject to the requirement that Connex fully co-operated with both TTS and the incoming service provider by providing them both with such employee information as was reasonably necessary for TTS to compile any tender documentation, for bidders properly to price their bids and for the incoming service provider to take on Connex staff.

### **The 1st Stage Tender Instructions ("1<sup>st</sup> Stage Tender")**

5. The 1st Stage Tender included the following:

"...the Tenderer is required to provide a proposal (part of the Migration Statement see item 3.15) for the transfer of all the existing operator's staff based on the terms and conditions at the time of this tender except for any Director or the General Manager The Employer has agreed to use its reasonable endeavours to facilitate the transfer of staff and provided such employee information for the Tenderer to price the Tender."

"The Tenderer shall submit an outline Method Statement setting out a programme and proposals for setting up the 2013 Contract which shall adequately reflect how they will transfer

existing staff ( excluding any Director or the General Manger of the existing operator) and or obtain suitable staff, vehicles and all necessary equipment to commence the operation on the 1st January 2013”

“ ...The Tenderers attention is drawn to the fact that there is no requirement under the 2013 Contract for any Director or the General Manager of the existing operator to be included in any proposal for the transfer of existing staff. The information noted above and the terms and conditions to be found in Appendix G have been provided by the existing operator to the Employer and provided to the Tenderer in good faith....”

### **The successful tenderer's submission**

6. HCT Group is the parent company of CT Plus Jersey Limited ("CT Plus"). HCT Group's response to the second stage of the tender process was submitted under covering letter dated 14 June 2012. This response was submitted on the basis of a "seamless transfer of staff". HCT Group stated:

"...we will not change any of the staff terms and conditions we have been made aware of in the first stage tender documents, for the first nine months of the contract."

7. I took the decision to award the 2013 Bus Operator Contract (the "2013 Contract") to HCT Group, as detailed in the decision summary dated 04 July 2012. The 2013 Contract is due to commence on 1 January 2013 (the "Commencement Date") and will be operated by CT Plus. HCT Group and TTS have entered into a letter of intent, dated 18 July 2012, in relation to the 2013 Contract. The 2013 Contract is expected to be signed shortly.
8. Accordingly, in July 2012 the requirements of the first obligation on TTS under Clause 18.3 had been fully met by TTS.

### **Facilitating a transfer: mediation meeting**

9. TTS has worked around the clock with the unions, staff representatives, Connex and CT Plus to try and facilitate a transfer of staff. On 9 October 2012 TTS asked staff representatives, Connex and CT Plus to attend an urgent JACS facilitated mediation meeting the next day, 10 October 2012, in order to see how best matters could be addressed and progressed. TTS was anxious to ensure that the best possible arrangements were put in place for staff. Concerns had been raised about new proposals put forward by CT Plus for modernised terms and conditions and a "clean break" arrangement for employment under the new contract, rather than a transfer with continuity of employment.
10. The meeting took place on 10 October 2012 and was extremely constructive. At the meeting it was agreed that eligible staff would transfer with preserved continuity of employment, for future statutory redundancy, unfair dismissal and notice purposes. The transfer would be on the basis of new terms and conditions in order to ensure that the present needs of Islanders were met, in accordance with the provisions of the 2010 Sustainable Transport Policy. A number of changes were agreed to enhance the terms and conditions on offer.
11. JACS issued the following statement about the meeting:

"Following a very useful meeting of all parties involved in the provision of a bus service for Jersey it was agreed that all parties present would immediately encourage and facilitate meetings between existing Connex employees and representatives of CT Plus on a one to one basis within the next 10 days.

The purpose of these one to one meetings is to allow CT Plus representatives to meet with their potential employees, explain the way in which CT Plus intended to work in the Island and to invite all

staff to accept contracts of employment with CT Plus under the terms agreed at the mediation meeting held on 10 October 2012.

All parties present agreed that while arrangements as above are finalized no further public statements will be issued as it is now a matter of arranging for the Connex employees to determine whether they wish to join CT Plus from January 2013."

### **Current position**

12. Since the meeting on 10 October 2012 Connex, CT Plus and TTS have continued to work together in relation to arrangements for the transfer of staff from Connex to CT Plus. A number of positive staff meetings have taken place and CT Plus has confirmed that it is looking forward to taking on eligible Connex staff.
13. On 19 October 2012, TTS reiterated to CT Plus that it was essential that all key terms and conditions (such as rates of basic pay) of transferring staff were either mirrored or improved upon. CT Plus agreed further to enhance the terms and conditions that were being offered to transferring staff.
14. TTS is pleased that, following extensive discussions with Connex, CT Plus and the union, CT plus is now offering eligible driving staff employment on terms which include the following:
  - CT Plus basic hourly rate of pay for Monday to Friday working hours is a slight increase over the existing rate at tender (the contractual benchmark).
  - CT Plus overtime rate Monday to Friday is the same as their basic hourly rate, which is less than tender (see point 15 below)
  - CT Plus basic rates for Saturdays are higher than at tender.
  - CT Plus basic rates for Sunday are equal to the overtime rates at the time of tender
  - CT Plus basic rates for Public and Bank Holidays are higher than the overtime rates paid at the time of tender.
  - The CT Plus rostered working week of 5 days in 7 is an improvement on the present 6 days in 7, typically giving 47 more rest days per year to a driver.
  - The basic working week of 39 hours remains the same
  - CT Plus's annual salary for the contracted basic 39 hours will be slightly higher than at tender.
  - CT Plus's sickness provision for the first 4 years of service is higher than at tender.
  - Healthcare and pension payments remain the same.
  - 5 weeks paid holiday: remains the same.
  - Paid meal breaks will continue.
  - No probation period will apply to transferring staff
  - Staff transfer with preserved continuity of service for future statutory redundancy, unfair dismissal and notice purposes.
15. Access to overtime is at management's discretion, is voluntary, and is not a contractual right. CT Plus had anticipated removal of overtime from rosters as it is very expensive. However as CT Plus talked to staff it became clear that some staff, although not a majority, did want to work more than approximately 39 hours per week. If CT Plus had a higher overtime rate for Monday to Friday then the need to reduce or eliminate overtime would not have been addressed. Having a flat rate enables CT Plus to address this issue while also enabling drivers to work more hours, up to the maximum of 54 and earn accordingly (circa £40,000).
16. For information, the 54 hour working week maximum being applied to this new contract has been introduced for health and safety reasons to protect both the public and drivers, in accordance with advice we have received from the Health & Safety Inspectorate. It is in accordance with recognised UK best practice and consistent with the Unite Union's current 'A Safer Way' campaign.

17. Staff at TTS continues to work tirelessly to facilitate the transfer of staff from Connex to CT Plus on 1 January 2013.

**Additional questions raised**

18. I have been asked a number of additional questions by Deputy Southern. My responses are set out below in the interests of providing one comprehensive answer.
19. I can confirm that the contractual terms offered to the bus drivers on 4th October 2012 were provided to us on the 24<sup>th</sup> September 2012. The Department has continued to work closely with both CT Plus and Connex since receiving this information, in order to facilitate the transfer of staff to CT Plus. A number of meetings have taken place between the Department, Connex and CT Plus, including the JACS mediation meeting that the Department requested on 10 October 2012. Please see paragraphs 9-14 above. The process has been protracted for a number of reasons including the fact that the staff in question are not employed by either the Department or CT Plus and so much of the communication has to be via Connex, as current employer.
20. The deadline for confirmation that eligible drivers wished to transfer was set down because CT Plus need to complete checks, including CRB checks, on existing drivers and on any new drivers that it may be necessary to recruit and train. These checks need to be completed well in advance of the commencement of the new bus service in January 2013. This is not a question of an "ultimatum". It is about the need of the incoming contractor to ensure that it has carried out appropriate checks, not least to protect the safety of the public of the Island. A deadline had to be set down if matters were to be concluded within the relevant timescales.
21. The Employment Relations Code of Practice on Trade Union Recognition relates to employees and their employer. CT Plus is not yet the employer of staff who are eligible to transfer. If staff who join CT Plus wish their employer to recognise their representatives or their union, then of course they have the absolute right to seek such recognition under the relevant Code of Practice of the Employment Relations Law. The question of union recognition by an employer is not a matter for the Minister. It is a matter for the employer. CT Plus has already met with staff representatives, at the mediation meeting, and it is keen to engage fully with the union at an appropriate time, once staff have transferred. For information, CT Plus have just signed a recognition agreement with Unite in Guernsey, the first within the bus service there, and they have instigated union recognition in other of their depots. CT Plus have publicly stated that they believe that where a union works well it can be a source of good in the workplace.
22. Under Clause 18.3 of the Connex Contract I am obliged to use my reasonable endeavours to facilitate the transfer of staff. That is exactly what my officers have been doing and continue to do with the assistance of the outgoing and incoming operators, JACS and staff representatives. While the situation remains dynamic I am confident of a good outcome.
23. Historic issues arising in relation to the previous change in contractor have been considered and addressed during the full course of this tender process, from 2011 onwards. It is important to note that on a service contract such as this, where the States are not the employer or owner of the existing contractor's assets, there will always be risks that it may not be possible to remove completely. To address these risks, the full co-operation of all the parties is required and my officers have been and continue to address the remaining issues.

**Ongoing work: need to allow the parties to move forward**

24. Given the agreement reached at the mediation meeting on 10 October 2012, it would not be appropriate for me to go into further detail about matters which the relevant parties are now addressing together.

**1.11 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE INCREASE OF THE FINES CONTAINED WITHIN THE MOTOR VEHICLE RACES (JERSEY) LAW 1946:**

**Question**

With reference to the Motor Vehicle Races (Jersey) Law 1946, does the Minister believe, given the dangerous nature of motorsport, that the £2 maximum fine for obstruction or being unlawfully on an area used for racing is sufficient in this day and age and, if not, will he agree to amend the fine to perhaps, level 1 on the standard Scale of Fines?

**Answer**

TTS is currently in the process of preparing new road event legislation, which it aims to bring to the States in 2013, subject to consultation with the Parishes and other relevant authorities etc.

The proposed new law, presently in draft form, would replace the current offence (with its fine not exceeding £2) with an equivalent offence.

The penalty under the new equivalent offence would be 'level 1' on the standard scale (i.e. \*£50). However, in addition the new law would allow a potentially higher level of fine, not exceeding 'level 2' on the standard scale (i.e. \*£500) for a person who uses a vehicle in contravention of any restriction, or prohibition imposed in relation to a race.

\* Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.

**1.12 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING POWERS TO REMOVE A JURAT FROM OFFICE:**

**Question**

What measures are in place should information come to light that a sitting Jurat has displayed a questionable commitment to justice (a commitment upon which the role revolves) and what powers, if any, exist to remove a Jurat from office?

**Answer**

This information has, in terms, already been provided in a previous answer tabled by the Attorney General on 25th September 2011:

*The independence of the Jurats is secured by restrictions on their removal, at any rate without cause pursuant to Article 9 of the Royal Court (Jersey) Law 1948. It is only the Order of Her Majesty in Council on petition of the Superior Number of the Royal Court who may remove a Jurat from office. States Members have no role in that process. This security of tenure and freedom from external pressure from the legislature or executive is at the cornerstone of judicial independence and the good administration of justice.*

Were a judge to display serious behaviour of a sort that was inconsistent with the discharge of his or her judicial office then, were that judge to seek to remain in office, it would be open to the Royal Court following an appropriate disciplinary inquiry to present a representation to Her Majesty in Council that such a judge should be removed from office.

**1.13 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE RECUSAL OF JURATS FROM CASES WHERE THEY HAVE A CONFLICT OF INTEREST:**

**Question**

What sanctions, if any, are in place in the instance of a Jurat not revealing a conflict of interest and recusing him or herself from a court case where this should have ruled him or her out from sitting in judgment?

**Answer**

On the 15th May 2012 the Attorney General answered a question on judicial conflicts of interest in response to an oral question from Deputy Pitman. That answer is on Hansard and accordingly is in the public domain. Any party has the right to apply to a judge to disqualify himself and the judge will consider that application by applying the correct legal tests and having regard to their judicial oath of office and code of conduct. If the judge declines to disqualify himself, or if the conflict is not identified until after the case is heard, then the remedy is to take the matter to the Court of Appeal.

The reference to the term ‘sanction’ is not understood. As a general principle, Judges are not disciplined for a single mistake. As already mentioned, if a Jurat does not declare a conflict of interest then the aggrieved party’s remedy is to appeal the decision of the Court of Appeal. There are numerous examples in the United Kingdom of cases being successfully appealed on the grounds of apparent bias and as far as the Attorney General is aware it has not been suggested that in such cases the judge below should be disciplined.

**1.14 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE USE OF A BODY SUCH AS THE APPOINTMENTS COMMISSION TO APPOINT JURATS:**

**Question**

Given the potential conflicts of interest that exist in both States Members and Advocates proposing or seconding individuals to sit in the courts as Jurats (for example an Advocate nominating a Jurat may subsequently appear in a case in which that Jurat is sitting), would the Chief Minister agree to bring forward for approval amendments to the Royal Court (Jersey) Law 1948 so that the election of Jurats is no longer undertaken by an electoral college but overseen by a body such as the Appointments Commission and, further still, what, if anything, would prevent this body being involved in the appointment process?

**Answer**

Whilst I have full confidence in our system of justice, I am not closed to the system of judicial appointments being considered. I recall that the Second Interim Report of the Constitution Review



Group, presented to the States Assembly on 27th June 2008 by the Council of Ministers, included a recommendation that consideration should be given to the creation of a Judicial Appointments Commission. I expect that this recommendation will be considered carefully during the coming months and that the Council of Ministers would be content to consider any such proposal.

I note that the Attorney General in an answer in this Assembly on the 15th May 2012 dealt with the matter of whether or not a relationship between a judge and counsel, professional or personal, would necessarily amount to a conflict of interest.

**1.15 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE LACK OF PROSECUTIONS IN RELATION TO THE CHILD ABUSE SCANDAL AT VICTORIA COLLEGE:**

**Question**

In relation to the Jervis-Dykes child abuse scandal at Victoria College, why were none of the individuals, other than Mr. Jervis-Dykes, taken to court and prosecuted for their failings in effectively concealing the allegations of abuse?

**Answer**

The events addressed by this question were investigated by the Police in 1996 and Mr Jervis-Dykes was prosecuted in 1998.

As far as the Attorney General is aware no investigation files were received from the Police for consideration by the Law Officers in connection with persons other than Mr Jervis-Dykes.

**1.16 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE CRITERIA FOR DECIDING WHEN A PROSECUTION WAS NOT ‘IN THE PUBLIC INTEREST’:**

**Question**

When it is decided not to pursue a prosecution due to it not being seen as ‘in the public interest’, what criteria, if any, are used in making such a decision?

**Answer**

The decision to prosecute a person for a criminal offence is a serious one and is taken only after a two stage test has been applied. The first part is the “evidentiary” test and the second stage is the “public interest” test. The public interest stage is only reached and the public interest considered if the evidentiary test has been passed.

The evidentiary test is passed if there is sufficient admissible evidence to mean that there is a realistic prospect of securing a conviction on the charge in question. Once the evidentiary test is passed the public interest falls to be considered.

The prosecution decision making process is set out in the Code on the Decision to Prosecute (10th January 2000) and supplemental guidance on Domestic Violence which are public documents and

may both be found on the Law Officers' Department website. A copy of both documents is annexed hereto.

Whilst there can be no exhaustive list of matters that may fall to be considered within the public interest test, Paragraph 5 of the Code on the Decision to Prosecute and paragraph 4 of the Domestic Violence guidance deals with the types of matters that may fall to be considered under the public interest test.

## **CODE ON THE DECISION TO PROSECUTE**

### **1. Introduction**

- 1.1 The decision to prosecute (i.e. to charge) an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a small case a prosecution has serious implications for all involved - the victim, a witness and a defendant. Centeniers are to apply the Code to ensure that they make fair and consistent decisions about prosecutions.
- 1.2 The Code contains important information for those who work in the criminal justice system and the general public. It helps Centeniers to play their part in ensuring that justice is achieved.

### **2. General principles**

- 2.1 Each case is unique and must be considered on its own. There are, however, general principles which apply in all cases.
- 2.2 The duty of the Centenier is to make sure that the right person is prosecuted for the right offence and that all relevant facts are given to the Court.

- 2.3 Centeniers must be fair, independent and objective. They must not let their personal views of the ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

### The Code tests

- 3.1 There are two stages in any decision to prosecute. The first stage is the **evidential test**. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be. If the case does pass the evidential test the Centenier must decide if a prosecution is warranted in the public interest.
- 3.2 The second stage is the **public interest test**. The Centenier will only start or continue a prosecution when the case has passed both tests. The evidential test is explained in section 4 and the public interest test is explained in section 5.

### The Evidential test

- 4.1 Centeniers must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.
- 4.2 A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged.
- 4.3 When deciding whether there is sufficient evidence to prosecute, Centeniers must consider whether the evidence can be used and is

reliable. There will be many cases in which the evidence does not give any cause for concern. There will, however, also be cases in which the evidence may not be as strong as it first appears. Centeniers must ask themselves the following questions:

**Can the evidence be used in Court?**

- (a) Is it likely that the evidence will be excluded by the Court? There are certain legal rules which might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was gathered or because of the rule against using hearsay as evidence? If so, is there enough other evidence to ensure a realistic prospect of conviction?

**Is the evidence reliable?**

- (b) Is it likely that a confession is unreliable because (for example) of the defendant's age, intelligence or lack of understanding?
- (c) Is the witness's background likely to weaken the prosecution case? For example, does the witness have any dubious motive that may affect his or her attitude to the case or a relevant previous conviction?
- (d) If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?

- 4.4 Centeniers should not ignore evidence because they are not sure whether it can be used or is reliable. They should, however, look closely at it when deciding if there is a realistic prospect of conviction.

- 4.5 Where Centeniers have concerns over the possible exclusion of evidence, they should consult and be guided by the advice of the Police Legal Adviser.

5. **The Public Interest test**

- 5.1 In 1951, Lord Shawcross (Attorney General for England) made a classic statement on public interest which has been supported by Attorneys General ever since:

“It has never been the rule in this country - I hope it never will be - that suspected criminal offences must automatically be the subject of prosecution” (House of Commons Debates, Volume 483, column 681, 29 January 1951).

- 5.2 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the Court for consideration when sentence is being passed.
- 5.3 Centeniers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to

prosecute but others may suggest that another course of action would be better. The following lists of some common public interest factors (both for and against prosecution) are not exhaustive. The factors which apply will depend on the facts in each case.

**Some common public interest factors in favour of prosecution**

5.4 The more serious the offence the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if -

- (a) a conviction is likely to result in a significant sentence;
- (b) a weapon was used or violence was threatened during the commission of the offence;
- (c) the offence was committed against a person serving the public (for example, a police officer, prison officer or a nurse);
- (d) the defendant was in a position of authority or trust;
- (e) the evidence shows that the defendant was a ringleader or an organiser of the offence;

- (f) there is evidence that the offence was premeditated;
- (g) there is evidence that the offence was carried out by a group;
- (h) the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance;
- (i) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, personal views or sexual preference;
- (j) there is a marked difference between the actual or mental ages of the defendant and the victim or there is any element of corruption;
- (k) the defendant's previous convictions or cautions are relevant to the present offence;



- (l) the defendant is alleged to have committed the offence whilst under an order of the court;
- (m) there are grounds for believing that the offence is likely to be continued or repeated (for example, by a history of recurring conduct); or
- (n) the offence, although not serious in itself, is widespread.

#### **Some common public interest factors against prosecution**

5.5 a prosecution is less likely to be needed if:

- (a) the Court is likely to impose a very small or nominal penalty;
- (b) the offence was committed as a result of genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);

- (c) the loss or harm can be described as minor and was the result of a single incident (particularly if it was caused by a misjudgment);
- (d) there has been a long delay between the offence taking place and the date of the trial, unless -
- the offence is serious;
  - the delay has been caused in part by the defendant;
  - the offence has only recently come to light; or
  - the complexity of the offence has meant that there has been a long investigation;
- (e) a prosecution is likely to have a very bad effect on the victim's physical or mental health (always bearing in mind the seriousness of the offence);
- (f) the defendant is elderly or is (or was at the time of the offence) suffering

from significant mental or physical ill-health (unless the offence is serious or there is a real possibility that it may be repeated). Centeniers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill-health with the need to safeguard the general public;

- (g) the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation); or
- (h) details may be made public which could harm sources of information, international relations or national security.

5.6 Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Centeniers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

#### **The relationship between the victim and the public interest**

5.7 Centeniers act in the public interest and not just in the interests of any one individual. But, Centeniers must always think very carefully about the interests of the victim, which are an important factor when

deciding where the public interest lies and, accordingly, whether a prosecution should be brought.

### **Young offenders**

- 5.8 Centeniers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. The stigma of a conviction can cause very serious harm to the prospects of a young offender or a young adult. Young offenders can sometimes be dealt with at a Parish Hall Enquiry without the need for a Court appearance. However, Centeniers should not avoid prosecuting simply because of the defendant's age. The seriousness of the offence or the offender's past behaviour may make prosecution necessary.

### **Charges**

- 6.1 Centeniers should select charges which -
- (a) reflect the seriousness of the offending;
  - (b) give the Court adequate sentencing powers; and
  - (c) enable the case to be presented in a clear and simple way.

This means that Centeniers may not always continue with the most serious charge where there is a choice. Further, Centeniers should not continue with more charges than are necessary.

- 6.2 Centeniers should never go ahead with more charges than are necessary simply to encourage a defendant to plead guilty to a few. In the same way they should never proceed with a more serious charge simply to encourage a defendant to plead guilty to a less serious one.

7. **Accepting guilty pleas**

- 7.1 Defendants may want to plead guilty to some, but not all, of the charges. Alternatively they may want to plead guilty to a different, possibly less serious, charge because they are admitting only part of the crime. Centeniers should only accept a defendant's plea if they think the Court is able to pass a sentence which matches the seriousness of the offending. Centeniers must never accept a plea just because it is convenient.

8. **Power of the Attorney General to overrule a Centenier's decision**

- 8.1 Members of the public should be able to rely upon decisions taken by Centeniers. Normally, if a Centenier tells a person that there will not be a prosecution that is the end of the matter. However the Attorney General is the ultimate authority in respect of all prosecutions in the Island and has the power to overrule a Centenier's decision not to prosecute. In exercise of this power he may direct a Centenier to lay a charge. Where appropriate Centeniers should inform a person whom they have decided not to charge of this possibility.
- 8.2 Similarly the Attorney General may direct a Centenier not to proceed with a prosecution which has been commenced.

9. **Conclusion**

- 9.1 Centeniers form part of the Honorary Police. They are answerable to the Attorney General.

- 9.2 The Code for Centeniers is designed to make sure that everyone knows the principles which Centeniers apply when carrying out their work. Centeniers should take account of the principles of the Code when they are deciding whether to charge a defendant with an offence. By applying the same principles Centeniers are helping the criminal justice system to treat victims fairly and to prosecute defendants fairly and effectively.
- 9.3 The Code is issued by the Attorney General and is available from all Parish Halls and:
- The Law Officers' Department  
Morier House  
St. Helier  
Jersey. JE1 1DD.
- 9.4 It is also available at the States of Jersey Police Headquarters.

.....  
H.M. Attorney General

10<sup>th</sup> January, 2000.

**Guidance on the Decision to Prosecute:**

**Supplementary Guidance:**

**Domestic Violence**

**1. INTRODUCTION**

- 1.1 This guidance is supplementary to the Code on the Decision to Prosecute dated 10<sup>th</sup> January, 2000 (“the Code”). It does not modify or amend the Code but is rather guidance as to how the Code might be applied in relation to allegations of domestic violence.
- 1.2 The purpose of issuing this Guidance is to ensure consistency of approach and clarity regarding the approach to evidential and public interest considerations in relation to allegations of domestic violence.

**2. GUIDANCE**

2.1 Definition of Domestic Violence:

*Any incident of threatening behaviour, violence, abuse or harassment between adults who are or have been intimate partners or family members, regardless of gender or sexuality.*

2.2 An **adult** defined as any person aged 18 years and over and **family members** are defined as mother, father, son, daughter, brother, sister and grandparents.

2.3 The same evidentiary and public interest considerations apply irrespective of the gender of the parties.

2.4 The definition of domestic violence refers to “adults” but this policy will also apply to criminal allegations which occur in a domestic context involving victims and abusers **whatever their age**.

### 3. Evidence

3.1 In all cases, including cases involving allegations of domestic violence, before a suspect is charged, the evidential test must be passed before consideration is given to whether a prosecution is in the public interest. The fact that the allegation involves domestic violence does not mean that the evidential threshold for prosecution is any lower.

3.2 When considering whether the evidential test is passed, the fact that the victim of domestic violence has not made a statement of complaint will not, in itself, be conclusive. Serious consideration must be given to what other evidence is present.



- 3.3 Evidence that can be used to prove a case includes, **but is not limited to**, the victim's account, that of a friend, neighbour or child or young person who may have been nearby, any admissions by the suspect, calls to the emergency services (which may include evidence of admission) medical evidence, photographs and other forensic evidence.

Assessing the Evidential Test when a Victim who has made a written Statement of Complaint subsequently withdraws that complaint.

- 3.4 Sometimes complainants will withdraw their complaints. That does not necessarily mean that the offence did not take place and subject to the evidentiary test continuing to be passed, the case should be prosecuted. In cases where there is sufficient other evidence it might be possible to proceed without relying on the evidence of the victim at all.
- 3.5 If this happens, the reason why the victim has asked the case to be stopped must be ascertained. The victim should be invited to make a written statement which explains the reasons for wishing to withdraw support for the prosecution, indicating whether they have been pressurised to withdraw support and providing any other relevant information. The victim should also be invited to indicate whether the contents of their original statement were true. The victim should also state whether, notwithstanding their wish to drop

the case, they will attend court to give evidence if a decision is made that the case should proceed.

3.5 In circumstances where the victim states that their original complaint was true, for the purposes of assessing the evidential test, it should be assumed that the witness would attend court and give evidence in accordance with the contents of their original complaint.

3.6 If in a subsequent statement a victim indicates that the contents of their original statement were untrue in whole or in part, the effect of any inconsistency needs to be assessed in determining whether the evidential test is passed.

3.7 If it is suspected that the victim has been pressured or frightened into withdrawing the complaint, the police shall investigate further. If it is found that the victim's withdrawal was based on fear or intimidation, the evidence will be considered and it will be decided whether further charges should be brought.

#### 4. Public Interest

4.1 In cases involving an allegation of domestic violence, if the evidential test is passed, the public interest will be generally in favour of a prosecution even if, for example, the injury was minor or

the parties have reconciled. A Parish Hall disposal will rarely be appropriate.

- 4.2 In assessing the public interest the impact the domestic violence has had on the family and any children is to be considered as is the future safety of the victim and any children and/or other young people.
- 4.3 Care should be taken to differentiate between public and private interest considerations. For example, the fact that, if charged and/or convicted a suspect may lose their employment is a private rather than a public interest consideration. The personal consequences to a suspect should not provide him or her with any immunity against prosecution.
- 4.4 In all cases, information should be obtained by the Police about family circumstances and the likely effect of a prosecution on the victim, children and any young person. The receipt of this information should not delay the decision to charge where the evidentiary test is passed.

Continuing with a prosecution against a victim's wishes

- 4.5 In cases where the evidential test is passed and the victim does not want the prosecution to continue, officers should consult with a

legal adviser in order to assess whether a prosecution remains in the public interest.

5. Diversion

- 5.1 Cases should only be considered for disposal at a Parish Hall enquiry when the evidential test is passed. It is not appropriate for the Parish Hall enquiry to consider imposing sanctions in cases where there is insufficient evidence.
- 5.2 There will be exceptional cases when disposal at a Parish Hall Enquiry may be appropriate. This would normally only be the case when a person other than the complainant or a member of the complainant's household reports the matter to the Police, there is no previous history of domestic violence or allegations of such, the use or threat or force is not serious and where the victim has indicated that he or she does not wish to support a prosecution and there is no suggestion that the absence of support for the prosecution is as a result of pressure from the suspect or others acting on their behalf.
- 5.3 If, in exceptional circumstances, a case is considered appropriate for disposal at the Parish Hall, consideration should be given to deferring the proceedings before the Parish Hall to allow a suspect to address their offending behaviour by means of, for example, an anger management course or the ADAPT programme.

5.4 It will seldom be the case that where an individual has a previous conviction for an offence of violence or has received a Parish Hall disposal, that it would be appropriate to deal with the matter at Parish Hall level.

6. Bail

6.1 Where a suspect has been arrested for an offence of alleged domestic violence and the evidential test is passed, serious consideration must be given as to whether it is appropriate to ensure that they are charged and detained in custody so that a court may impose bail conditions in order to prevent further offending and/or interference with the alleged victim or any other members of the household. The risks inherent in releasing a suspect unconditionally must always be considered. In this regard the interests of the victim and any children of the family should take precedence over interests of the suspect.

6.2 Cases involving an allegation of domestic violence should be brought before the Magistrate's Court at the first available opportunity which will not necessarily be the normal day for an offence committed in that Parish. It is important for the protection of the victims of domestic violence and other members of the household that the Court should be seized of the case at the earliest practical opportunity.

**RELATING TO THE PROVISION OF NEW ACCOMMODATION FOR THE STATES OF JERSEY POLICE:**

**Question**

Would the Minister provide a detailed analysis of the allocated budget and proposed costs relating to the provision of new accommodation for the States of Jersey Police (this should include the construction of a new Police HQ at Green Street Car Park, together with any other facilities being provided)?

**Answer**

The project has a budget of £21.07m, which is to be funded through the following allocations:

Unspent Project Budget	£19,070,000
Allocation 2013	£1,000,000
Allocation 2014	£1,000,000
<b>Total Funding available:</b>	<b>£21,070,000</b>

The latest cost estimate at December 2011 prices is set out below:

<b>Item</b>	<b>Estimated cost</b>
Construction costs (including externals and contingency)	£17,465,315
Professional and other fees	£2,300,000
Client Fixtures, Fittings and Equipment	£647,000
Set up of off-site archive & garage	£30,000
Migration	£25,000
Contribution to Eastern Cycle Track (planning)	£25,000
<b>Total estimated costs @ Dec 2011</b>	<b>£20,492,315</b>

Whilst there is an appropriate sum for contingency within the construction figure, it is important that further provision is made for other client contingency (e.g. design issues) and the effects of inflation on the completion of the project. It is considered prudent to set aside £500,000 for client contingency and the project Quantity Surveyor has advised that a provision for inflation to completion should be £1,150,000.

Including this contingency results in the estimated costs exceeding the allocated budget. In design terms the project is still at an early stage, so after the planning decision the Project Team will tackle any cost issues through detailed design and value engineering, the procurement process and reviewing levels of contingency.

Although not part of the provision of a new Police HQ, in conjunction with our TTS colleagues we will be assessing the provision of car parking in St. Helier.

## 1.18 DEPUTY J.A. MARTIN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DETAILS OF THE GREEN STREET POLICE HEADQUARTERS SCHEME:

### Question

With regards to the proposed States of Jersey Police HQ at the Green Street car park site, would the Minister confirm the following details of the scheme –

- (i) the number of storeys;
- (ii) the gross internal area (by storey) in square metres and also square feet ;
- (iii) the estimated cost (per square metre and square foot);
- (iv) the number of personnel that the building is anticipated to cater for;
- (v) the number of operational vehicles that will be parked on-site, and in other localities (please specify); and,
- (vi) the estimated number of visitors (monthly and annually)?

### Answer

- i. The building comprises basement, ground, first, second and third floors together with a small element of accommodation at fourth floor level. Overall the building presents four and a half storeys above La Route du Fort.
- ii. Gross internal floor areas are as follows:-

Basement parking	1,201 sq m (12,927 sq ft)
Basement	441 sq m (4,747 sq ft)
Ground	915 sq m (9,849 sq ft)
First	1,480 sq m (15,931 sq ft)
Second	1,480 sq m (15,931 sq ft)
Third	1,251 sq m (13,466 sq ft)
Fourth	390 sq m (4,198 sq ft)
<b>Total</b>	<b>7,158 sq m (77,049 sq ft)</b>
- iii. In terms of the construction cost, including contingency, external works and services, the project Quantity Surveyor has estimated the overall cost per square metre as £2,439.93 (£226.67 per sq ft). The project Quantity Surveyor has also provided the following breakdown of estimated costs per square metre (per square ft) for some specific areas:

Basement areas:	£1,059.07 (£98.39)
Office areas:	£2,411.21 (£224.01)
Custody suite:	£3,422.95 (£318.00)
- iv. The building will cater for 330 people spread over a flexible shift pattern, which means that the maximum number of staff present at any one time would be 220.
- v. The number of operational vehicles parked on site will be 45 (39 cars and 6 police motorcycles). It has always been planned that 3 larger specialist support vehicles would be kept off site at a States-owned site at La Collette.
- vi. Based on historical information, the number of visitors to the new Police HQ is estimated as:

Monthly	- 2,400
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Annually - 28,800

These figures include all visitors to police HQ, including members of the public and those on official business, such as lawyers and Centeniers. Visits to the police station are generally distributed through the day, with most visits outside peak periods. The Transport assessment identifies that peak period visits by car will be 'insignificant' at below 10 per hour. Members of the public will have limited access to onsite parking while those on official business will have access to basement parking.

**1.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE OUTSTANDING PROBLEMS AT THE ENERGY FROM WASTE PLANT:**

**Question**

Will the Minister provide more detailed information regarding all the outstanding snags at the Energy from Waste Plant, including the nature of any defects, the impact on the operation of the plant, and the estimated cost and timescale envisaged to resolve each issue?

**Answer**

The Energy from Waste plant has successfully processed all of the Islands' municipal waste arising since 17th December 2010.

The outstanding snags and defects at the Energy from Waste Plant are subject to an ongoing contract between the "Contractor", CSBC (Jersey) Limited and the "Purchaser", the Minister for Transport and Technical Services.

Due to the contract confidentiality clauses, the publication of such detailed technical and financial information requires written agreement from the Contractor.

The Minister is happy to meet with the Deputy and review the outstanding snags and defects and to give the Deputy assurance that the process is being managed in the appropriate manner.

The costs of resolving the snags and defects are with the Contractor and this information is not supplied to the Purchaser, so it is not possible to provide the costs for snag or defect resolution.

The timescale for snag or defect resolution is subject to several factors. In some instances new parts have to be manufactured or specialist sub contractors have to be brought in to resolve issues. The timings of these events are planned between the Contractor and the Plant Operators. In addition to this some snag or defect repairs require the plant to be temporarily shut down. These issues are normally held and programmed in to coincide with a planned plant shutdown.

**1.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PROVISION OF TAXI SERVICES IN JERSEY:**

**Question**



Further to the 'Taxi Regulatory Reform' Green Paper published in March 2012 (R.43/2012 ) will the Minister advise what steps, if any, he is taking to address problems associated with the provision of the taxi service in Jersey and what role Driver and Vehicle Standards will play?

**Answer**

A policy White Paper is in the process of being developed which will set out the reforms I intend to present to the States for their consideration.

The policy impact analysis and detailed proposals will be developed during the rest of this year ready to be lodged with the States for debate in the first half of next year. A detailed programme is still being developed to ensure that States processes are complied with and Scrutiny and other interested parties are fully consulted.

Prior to finalising the policy document, so the necessary detail can be included, some further discussions will be needed with industry representatives to agree the specifics of how the changes I wish to make may actually be implemented.

At present it is intended that Driver and Vehicle Standards will continue to regulate the operation of the Island's taxi service.

**1.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PUBLICATION OF THE FULL TENDER DOCUMENTS RELATING TO THE MANAGED PRINT TENDER:**

**Question**

Will the Minister publish -

- (a) the full tender documentation for what is now called the Managed Print Tender;
- (b) the timeline adopted for the tender including details of any amendments to it;
- (c) full details of the assessment process and criteria used to determine the outcome of the tender; and,
- (d) explain in detail how the anticipated savings from the contract will be assessed?

**Answer**

It is disappointing that Deputy Higgins has not taken up the Assistant Minister's offer of meeting the Corporate Procurement team in order to be fully briefed on the managed print project. It is also concerning that the Deputy chooses to be advised by sources not party to the complete process. A detailed understanding of the procurement process and associated decision making should allay any concerns.

The high level assessment criteria upon which the tendering companies were assessed were in line with the OGC (UK Office of Government Commerce) Contract for Managed Print Services and the shortlisted suppliers bid in accordance with these criteria. The high level weightings are set out below but individual scores cannot as they are commercially sensitive. Private company's who tender for Public sector work do so with the expectation that their tenders are, and will remain,

commercially confidential. It is therefore not appropriate to release details of private company's bids for general public review.

Weightings:

- Technical ability 30%
- Customer / user feedback 20%
- Commercial proposal 50%

The timeline for the tender process is set out below

Business Case and Project Team Formation	December 2007
Express of Interest Advert in JEP & OJEU	January 2008
Pre-Qualification Questionnaires issued and scored	February 2008
3 Suppliers Shortlisted	February 2008
3 Shortlisted suppliers invited to response to Invitation to Tender (ITT)	June 2008
ITT received and scored	September 2008
2 Suppliers requested to thorough survey for Cyril Le Marquand House	September 2008
Reference Site Visit undertaken by Project team	October 2008
Survey received and evaluated by Project team	October 2008
Award decision could not be reached as suppliers assessed at this point of equal ability OGC engaged to assist Project team to determine progression	October/November 2008
OGC advise recommended inviting 2 suppliers to under pilot trial of their proposed solutions	November 2008
Project review - Project team	Qrt 1&2 2009
Project planning 'Pilot' sites	May / June 2009
Suppliers requested to undertaken pilots	May / June 2009
Preparation of survey and financial comparisons in preparation of pilot trials	Aug / Sept 2009
Pilot Trials undertaken	Nov / Dec 2009
Pilots scored	Jan / Feb 2010
Evaluation report completed with preferred supplier recommendation	April 2010
CMB approval	June 2010

An audit of the project would be the most effective way of dealing with this matter whilst protecting the commercial position of the affected parties and the Minister is supportive of the entire process being reviewed by the PAC. The offer remains open to Deputy Higgins to be fully briefed.

**1.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CONTRACT FOR THE MANAGED PRINT SERVICE:**

**Question**

Will the Minister publish:

- (a) the high level tender documents that were supplied to Danwood that included information supplied by Cannon UK referred to by the Assistant Minister in his oral answer to the Assembly on 9th October 2012;
- (b) the assessment of the top three tendering companies which led to the award of the contract to Danwood; and,
- (c) full details of the implementation of this contract showing whether the winning contractor is on time and has met the milestones laid down in the contract?

### **Answer**

- a) It is disappointing that the Deputy has not taken up the Assistant Minister's offer of meeting the Corporate Procurement team in order to be fully briefed on the managed print project. It is also concerning that the Deputy chooses to be advised by sources not party to the complete process. A detailed understanding of the procurement process and associated decision making should allay any concerns. Prior to the new contract the States had a staggering 2,600 printers with 700 different types of printer. This will reduce to 900 and 15 respectively. If the Deputy continues to reject this offer an audit of the project would be the most effective way of dealing with concerns whilst protecting the commercial position of the affected parties.

Canon UK tender documents were not supplied to Danwood. The data released was an internal analysis document which did not form the basis for the selection of Danwood as the preferred supplier. As this was a working document and the content formed no basis for selection of the preferred bidder it was not retained. Furthermore it was confirmed at the time by the third party whose data was released in error that it had no impact on the tendering process.

- b) The high level assessment criteria upon which the tendering companies were assessed were in line with the OGC (UK Office of Government Commerce) Contract for Managed Print Services and the shortlisted suppliers bid in accordance with these criteria. The high level weightings are set out below but individual scores cannot as they are commercially sensitive. Private company's who tender for Public sector work do so with the expectation that their tenders are, and will remain, commercially confidential. It is therefore not appropriate to release details of private company's bids for general public review.

Weightings:

Technical ability 30%  
Customer / user feedback 20%  
Commercial proposal 50%

- c) Mobilisation has taken longer than anticipated due to internal departmental issues but currently 27% of our total number of sites now operate with a managed print service and the number of devices at these sites has reduced by 63% from 426 to 155. In the period May to September these sites experienced an overall 15% reduction in print volumes.

The Minister again extends the offer for the Deputy to be fully briefed on the project by Corporate Procurement and is supportive of the entire process being reviewed by the PAC.

## **2. Oral Questions**

### **The Deputy Bailiff:**

The following oral question which is 15 on the main Order Paper lodged by Deputy Le Hérissier of the Minister for Economic Development: “What skills and knowledge are being provided by McKinsey Consultants in their Financial Services study that are not available within the States of Jersey or bodies like Jersey Finance” has been withdrawn.

### **Deputy R.G. Le Hérissier of St. Saviour:**

Can I just very briefly? The Minister - who is not present - and I have had a chat, not that total reassurance has been obtained, but I have spoken to the Minister. He is not present.

### **The Deputy Bailiff:**

Thank you, Deputy.

### **2.1 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources regarding unregulated sales advertisements on the Jersey Insight website:**

As the Minister represents the public shareholder interest, is he able to explain why a subsidiary of the States-owned utility, Jersey Telecom, is allowing its website, Jersey Insight, to run unregulated sales advertisements for puppies, kittens and other live domestic pets without first assessing whether the information is from *bona fide* local individuals?

### **Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

JT Insight brings buyers and sellers together across a broad range of categories from pets to cars to fridges to furniture. I am advised that there is no legitimate basis on which restricting sellers to local individuals could be put in place. There is nothing illegal about advertising pets for sale in Jersey, of course, and from a cursory glance from other advertising pages on other main media sites and other internet sites, I am sure that Members will readily establish that. Users, in using Jersey Insight, undertake to use the site only for lawful purposes and to comply with the Codes of Conduct and Codes of Practice that are applicable when they put the advertisement in. Any breaches are brought to JT’s attention with the offending material being immediately removed and the seller’s account being restricted. In the event of fraudulent intent, there is already a comprehensive range of common law offences and various statutes in place in Jersey to protect individuals so I do not think it is currently possible or I do not see the need to put further regulations in force on this particular matter.

#### **2.1.1 Deputy S. Power:**

I read the Minister’s written responses and I have listened to him repeat the written responses to my written question. However, as a specific example, an advertisement appeared on 7th October 2012 purporting to sell puppies and the address was given as Alabama and the request was for Jersey residents to send \$330 or \$180 to a bank account in Alabama. I am wondering how the Minister would deal with this because, as it turned out, it appears that the ad was not for pups but was an intent to defraud a Jersey resident of their funds. How does the Minister answer that interpretation of that particular advertisement?

[9:45]

### **Senator P.F.C. Ozouf:**

I am happy to investigate that particular one. I cannot help but think of *caveat emptor*. If Islanders want to respond by sending money to that sort of advertisement, then clearly they should be thinking twice about it. I am advised that there are currently 6,000 items listed as it stands today on

JT Insight and 23 are for pets. There are 2 parrots, one partridge, 2 geckos, 10 kittens, 12 dogs, 2 horses, some land snails (they are counted as one), one hamster, 12 fish, one quail, one bearded dragon, 2 turtles, one corn snake, 5 ducks and 2 degus, whatever that is. I really think that in relation to the pet issue from a local telephone number, then that is clear, people can be followed up. We can immediately take action for that but it sounds as though the Deputy has answered for himself that what potential buyers should be is to be careful and do not send any money.

### **2.1.2 Deputy S. Power:**

The Minister jests with me and I do not think it is an appropriate response. We have a situation with a wholly-owned subsidiary of a States of Jersey company that is allowing adverts to be posted which are intending to defraud a Jersey resident. It is all very well for the Minister to say "*caveat emptor*" or "Let the buyer beware" and make a joke about it in the States but my point is this website is not moderated. What is the Minister's response?

### **Senator P.F.C. Ozouf:**

As I have explained, I do not wish to underplay the importance of a particular fraudulent activity. I have explained in my answer that where a fraudulent activity or where a potential fraudulent sale is put forward, then action is taken by J.T. (Jersey Telecom). I will certainly take up the case for that. I do not know whether the Deputy has taken this particular case study up with J.T. but I am happy to do so for him. Of course, it is moderated to the extent that controls are put in place where J.T. or Jersey Insight is alerted to the fact that there is a problem. Then they immediately take it down and put restrictions on the account but I am happy to take up this particular issue if he wants me to.

### **2.1.3 Senator S.C. Ferguson:**

Yes, there have also been occasions where effectively puppy farmers have been advertising and the puppy farmers could well fall foul of the Animal Welfare Law. If there are so few animal adverts, will the Minister undertake to ensure that the J.T. will make sure that any livestock adverts are purely local and there is no question of any advertisements from the U.K. (United Kingdom) or abroad being put on Jersey Insight because the quality of the livestock that comes over from these advertisements is heart-breaking. We see a lot of these at the animal shelter and it needs stopping so will the Minister undertake to make sure that it stops?

### **Senator P.F.C. Ozouf:**

I will do my best but, of course, it is not only JT Insight that advertises for pets and which Islanders are looking at. Obviously these issues are also live issues with eBay and Amazon and other market leaders. I am advised that of the total number of pets for sale, of the 55 particular adverts, 51 have local telephone numbers, one has a non-local telephone number and 3 have email contact. Maybe there are some guiding principles that can be put in place and some extra arrangements can be put in place for that. I am sure that J.T. has absolutely no interest. They are providing a free service here - which is also important, I think - where others are charging for a service which allows people to sell different domestic things for free. I do not see any reason for lots of complicated rules but I understand the point that the Senator is making and I will have some communication with J.T. about it.

### **2.1.4 Deputy M. Tadier of St. Brelade:**

Does the Minister agree that the example given by Deputy Power is an example of spam email or spam content on a website and that it is purely incidental that it was about pets and it could have been an advert for any other product? Will the Minister perhaps look into the more important issue of how long this advert was, the duration of it appearing on the J.T. website, because if it was clearly for a short duration of time and then taken down, it shows that J.T. are doing their job well.

If it was left to be on there for perhaps months and months with many Jersey residents sending millions of pounds over to the U.S. (United States) then clearly J.T. have not done their job.

**Senator P.F.C. Ozouf:**

I am happy to look into it but there are 6,000 items on JT Insight. This is a free service where no charges are being levied on Islanders wanting to put up an advert. Occasionally things will get through and this is clearly something that probably has got through. At the end of the day, people should not just be responding to an advert. You have to engage in the action of sending money for there to be a problem. But I understand the point the Deputy is making and I will investigate, but I am sure that Members will know that this is one issue which we will deal with and lots of others and we will give it appropriate priority but not be too heavy-handed about it.

**2.1.5 Deputy S. Power:**

I am happy to bring this to a close by asking the Minister a final question. Would he not agree with me that on the Jersey Insight website, there has to be a distinction between white consumer goods such as washing machines and dishwashers and live animals and that moderation needs to be far stricter when live animals, pets, dogs, fish, whatever, are advertised. Would he not agree with me that it needs a degree of moderation which is not needed for a washing machine?

**Senator P.F.C. Ozouf:**

If it is possible to do something simple without having a whole control in place that means that Islanders cannot place adverts for simple things, then of course I will arrange for them to look into it. I thank the Deputy for raising the point.

**The Deputy Bailiff:**

The next question is that of Deputy Young who has been marked *défait excusé* so if Members agree, I will mark that question down and if Deputy Young arrives before the end of Question Time and it is able to come in, he will ask it later on.

**2.2 Deputy C.F. Labey of Grouville of the Minister for Transport and Technical Services regarding the results of the taxi and cab review:**

Could the Minister confirm when the results of the taxi and cab review will be known, how much it will cost the taxpayer and what expertise and background the consultant engaged to undertake the review has in that particular industry?

**Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):**

The States Sustainable Transport Policy charges me to introduce improvements to the taxi service to provide a simplified system based upon what the public needs by 2015. The Green Paper consultation closed 28th March 2012 and was well supported with approximately 120 industry and 820 public submissions expressing their views. Now a Policy White Paper is in the process of being developed which will set out the reforms I intend to present to the States for their consideration. The policy impact analysis and detailed proposals will be developed during the rest of this year ready to be lodged with the States for debate in the first half of next year. A detailed programme is still being developed to ensure the States processes are complied with and that scrutiny and other interested parties are fully consulted. The States Sustainable Transport Policy provides a notional budget of £90,000 for this work. Thus far, £26,500 has been spent with the TAS Partnership Limited, the specialist consultant employed to carry out this work.

**2.2.1 The Deputy of Grouville:**

Could the Minister confirm what involvement government has, or thinks it has, in providing this service run from private companies and sole traders and how much the taxi and cab industry currently costs the taxpayer?

**Deputy K.C. Lewis:**

I would need to get back to the Deputy regarding what the costs are but T.T.S. (Transport and Technical Services) inherited its taxes from the Defence Department and it is historical that we are the regulator.

### **2.2.2 The Deputy of Grouville:**

Yes, being the regulator is one thing but dictating how private companies and sole traders are run is another. My question is does the department have any responsibility in ensuring cab companies, for example, are fulfilling their obligations for their plates in providing a prompt door to door service?

**Deputy K.C. Lewis:**

Yes, indeed they do. It is regulated. If the Deputy has anything to report, then our senior officer at D.V.S. (Driver and Vehicle Standards) will be delighted to hear from her.

### **2.2.3 Deputy R.G. Le Hérissier:**

Would the Minister acknowledge in the light of Parish meetings on the bus service that, in fact, it is wrong to see the 2 systems, taxis and buses, in isolation? While it may be a situation of treading where angels fear to tread, would he not agree that reforming both together might, in fact, give synergy?

**Deputy K.C. Lewis:**

That is one point but they were started separately so we need to continue separately. They are both very, very important items. We have the taxis, we have the cabs, and we have the limousine private hire. Dissatisfaction has been expressed and that is what we are trying to address. If we go for complete devolution on this, we could suffer the same way as Dublin, Republic of Ireland, where it was complete chaos.

### **2.2.4 Deputy R.G. Le Hérissier:**

There may have been a misunderstanding. I was not asking necessarily for a total free market in taxis and cabs. I was asking whether the 2 systems, buses and taxis, in fact, in some ways, particularly, say, in the north of the Island, serve the same market?

**Deputy K.C. Lewis:**

Indeed and this has been looked at as part of the report as there could be some synergy between the 2.

### **2.2.5 The Deputy of Grouville:**

I do not believe the Minister answered my question before in that what this service provided by private companies and sole traders currently costs the taxpayer.

**The Deputy Bailiff:**

I think he did answer it, Deputy. It is £26,000 if I heard him correctly.

**The Deputy of Grouville:**

That was the cost of the review. I am asking a different question.

**The Deputy Bailiff:**

Oh, I see, I am so sorry.

**Deputy K.C. Lewis:**

The cost to the taxpayer, I am not quite sure. I will need back to the Deputy on that one.

### **2.3 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the prayer breakfast at the Totem Club:**

With reference to the recent invitation by one of the Assistant Chief Ministers to a prayer breakfast at the exclusive Totem Club, will the Chief Minister advise whether this was initiated by him or his Council and if so, the cost and purpose of it?

**Senator I.J. Gorst (The Chief Minister):**

The invitation to a prayer breakfast was issued by Senator Routier in his private capacity as a States Member following informal conversations with colleagues. As indicated in the email invitation to all States Members, the purpose of the event was to give States Members an opportunity to join together in non-partisan fellowship to reflect on some of the wider and deeper aspects of our common life. The costs of the event were borne by the hosts Business Connect, a charitable organisation, although attendees were invited to make a donation towards costs.

#### **2.3.1 Deputy G.C.L. Baudains:**

I must say when I first received the invitation I presumed that the lodge in Stopford Road was closed for refurbishment although the Assistant Chief Minister advised me that he did not know. I wonder what are the Chief Minister's views on what sort of message this is sending out to the public that, in fact, we are using a club which is advertised on the internet as having hallmarks of luxury service, privacy and opulent surroundings?

**The Deputy Bailiff:**

I am not sure that is within the Chief Minister's responsibilities but perhaps, Chief Minister, you would like to do your best with it?

**Senator I.J. Gorst:**

Thank you, Sir, you have just taken my opening response. I am not sure what it has got to do with my official responsibilities as Chief Minister. As I indicated in my opening answer, that is a property which is used and, as I understand it, provided on a subsidised basis to Business Connect and therefore it was a natural extension for them to invite States Members to use that facility.

#### **2.3.2 Deputy S.G. Luce of St. Martin:**

Does the Chief Minister find it somewhat amusing that Deputy Baudains in his written question 4 asks for the reinstatement of States Members' lunches in order, and I quote: "To get together and resolve issues which otherwise could take days or weeks" and questions a prayer meeting which is there for exactly the same reason?

[10:00]

**Senator I.J. Gorst:**

I do not find it strange at all. I find very little strange being a year into this job. **[Laughter]** I do, however, believe that probably at their core basis, they have the same intentions that Members should be meeting together informally to discuss not just the things that directly come before this Assembly but the whole gamut of issues facing our community and the wider world and together develop constructive approaches and ways forward. We will not always agree and that is as it



should be, but it is important that we have the conversation and we understand everyone's point of view before coming to decisions. The only thing perhaps I would say is, of course, this morning's meeting was at no cost to the taxpayer. If we reinstate the States lunches, which I am in favour of having voted against it, that would be a cost to the taxpayer.

### **2.3.3 Senator L.J. Farnham:**

Nothing really of great importance. I just wonder if the Chief Minister knows whether Deputy Baudains attended the meeting or not.

### **Senator I.J. Gorst:**

I am really struggling to see how that is part of my official responsibility. **[Laughter]** I am not my brother's keeper, nor Deputy's Baudains. He did not attend, I did attend but, of course, he will be very welcome to attend any future meetings.

### **Deputy G.C.L. Baudains:**

I can help the Chief Minister out. No, I did not attend.

## **2.4 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding the estimated budget allocation in 1998/2000 for a new police station:**

Would the Minister advise what the estimated budget allocation was in 1998/2000 for the new Police Station, what the current budget is and whether this takes into account the £100,000 a year ongoing revenue that the Transport and Technical Services Department will lose through the reduction in parking spaces?

### **Deputy E.J. Noel of St. Lawrence (The Assistant Minister for Treasury and Resources - rapporteur):**

There was no capital budget allocated for a new police station in 1998/2000. The original budget for the police headquarters was set in 2003 at £20,650,000 and the capital funding was subsequently allocated in stages from 2005. The budget currently available for the police headquarters is £21,070,000. The 91 spaces at Green Street Car Park will be displaced elsewhere, either to other public commuter car parks or to the private sector. It is incorrect to state that T.T.S. will lose revenue. I agree that they may do so due to the displacement and there may be an impact on the ongoing revenues of the department. It is because of this it is currently proposed that the trading account's annual return to Treasury would be reduced by the sum of £100,000 per annum. As this is a revenue expenditure, it does not form part of the capital budget and therefore is excluded in the £21,070,000 as I have previously stated.

### **2.4.1 Deputy J.A. Martin:**

So it is £100,000 lost to the public because the Treasury will not be receiving the £100,000 a year. My question on the budget. I am surprised that when there were drawings being done and plans being drawn up in 1999 and 2000, there was no budget and I would like to investigate that further, but if the budget was allocated in 2003 and it does not seem to have grown, can the Deputy answer what the rate of inflation for this budget has been? It seems to be a minus to me.

### **Deputy E.J. Noel:**

I would just like to pick up on one of the points from Deputy Martin. She has inferred that there is going to be a loss to the public. We do not know this. That is why we are putting our proposal because there may be some reduction in revenue for the car park fund. With regard to why the capital budget has not increased significantly since 2003, that is because additional monies have been voted but they have been spent. The amount that is currently available is the £21,070,000.

Other funds have been voted and have been used on pre-feasibility studies, planning applications and the like.

**2.4.2 Connétable P.J. Rondel of St. John:**

I have got some concerns in the answer given to the question. Given back at the turn of the century I well recall seeing plans having been drawn up for Summerland and then police headquarters to go on the waterfront near the gardens or the waterfront car park, I should say, which had massive defence walls around it with armoured tank barriers around it, with built-in concrete, yes, exactly. I recall seeing them well in my time on Home Affairs. It would just be interesting to know how that was funded if there was no budget for it and in his research, hopefully the Assistant Minister can help us.

**Deputy E.J. Noel:**

I think the good Connétable of St. John's memory might not be as accurate as he thinks. The information that I have been given is that the original budget was voted on in 2003. I will, of course, go back and check those figures and if they are incorrect, I will let the Constable and other Members know.

**2.4.3 Senator S.C. Ferguson:**

I was listening but I may have missed it. Did the Assistant Minister, perhaps he could confirm the opportunity cost of the capital allocation for the land. Is that included in the £21,070,000?

**Deputy E.J. Noel:**

No, because the land is States-owned land. There is no opportunity cost included in the capital sum. Similarly, no capital has been allocated for the release of land at Summerland and the Ambulance Station, which is a gain to the Island in terms of the social housing requirement.

**2.4.4 Deputy J.A. Martin:**

I hope the Assistant Minister for Treasury and Resources has a good talk to the Minister for Transport and Technical Services because when I asked the question of the ongoing revenue budget, it was not a proposal. It is on Hansard and the Minister for Transport and Technical Services has told us that they will forgo giving the Treasury £100,000 a year for the foreseeable future and this is a loss to the taxpayer. It cannot be spent on anything. Would the Assistant Minister not agree or at least agree to talk to the Minister for Transport and Technical Services and get the story straight?

**Deputy E.J. Noel:**

I am happy to clarify that this is a proposal and that it is dependent to some extent on whether or not there is a loss to the car park fund. That is why it is a "may", not a "will".

**2.5 Deputy M. Tadier of the Chief Minister regarding the impact of recent revelations that high profile U.K. celebrities may have abused children in States of Jersey care homes on the Historical Redress Scheme and the Committee of Inquiry:**

Will the Chief Minister explain what impact, if any, the recent revelations of high profile U.K. celebrities who may have abused children in States of Jersey care homes will have on the Historical Redress Scheme and the forthcoming proposals for a committee of inquiry into historic child abuse in the Island?

**Senator I.J. Gorst (The Chief Minister):**

In relation to the Historic Redress Scheme, any claims against celebrities will be dealt with in the same manner as any other claim. As such, in the event that any new claims are submitted as a result of the recent allegations, the late admission of those claims into the scheme will be considered on a case by case basis.

**2.5.1 Deputy M. Tadier:**

Will the Chief Minister clarify when he says they will be dealt with in the same manner as any other claim in the Redress Scheme, currently under our Redress Scheme the States of Jersey are not responsible for any guests or celebrities or otherwise that were brought into the home in good faith or otherwise and then proceeded to abuse children in the care. Can the Chief Minister confirm whether that is the case?

**Senator I.J. Gorst:**

We had quite a lengthy debate with regard to the Historic Redress Scheme at the last sitting and we quite clearly said then that there may be cases which did not necessarily fit into the confines of the scheme but they were to be brought back to the Council of Ministers by the scheme's lawyers and to be considered for inclusion. So any that might not - as I issued and said at the last States sitting - Members should be approaching the scheme's lawyers and they, in due course, will be considered. As I said then - and I am not aware of any change - no claim to date has been excluded from the scheme.

**2.5.2 Deputy M. Tadier:**

Can the Minister clarify that he is essentially saying that he clearly stated last time that there is no certainty whatsoever? What I understand he is saying now is that claims may be brought back but there is nothing within the current Redress Scheme to say that they should be getting compensation if they were abused by outsiders, but that they will be considered on a case by case basis? Will the Minister also confirm that it is premature to talk about how many cases have been dealt with because only 10 per cent of cases in the Redress Scheme have been fully dealt with and we are still waiting on 90 per cent to be settled?

**Senator I.J. Gorst:**

It is very difficult for me to stand up and talk about individual claims. I am not dealing with the scheme on a day by day basis and that is as it should be. It is being dealt with by the scheme's lawyers, so I cannot and I think it would be wrong for me to comment on any particular individual claimant, whether an individual had visited the home or abuse had taken place outside of the home, dependent on the victim and in whose care they can rightly be considered to have been. So I am not sure that I can help the Deputy in any more detailed way than that.

**2.5.3 Deputy T.M. Pitman of St. Helier:**

I hope you will not say that this is too wide of the mark but given that we have had perhaps unfortunate comments about damaging Jersey's reputation by one of the Chief Minister's assistants, given that I know that there are going to be some new revelations coming out on a major American channel fairly soon and this issue with Jimmy Savile has gone round the world and is going to escalate even further, would it not be better for the Chief Minister to make a statement to protect Jersey's reputation regarding those issues that Deputy Tadier has touched on? Just so that people can know that this is all in hand and it is being taken seriously which I am sure he is.

**Senator I.J. Gorst:**

The Redress Scheme is processing claims and the Council of Ministers has been quite clear about that. I believe that it is a good and fair scheme and we have said that if cases come forward after that closing date, then they will be dealt with on a case by case basis. The Council of Ministers has

asked for the scheme lawyers to come back to the Council of Ministers if there are cases which do not necessarily on first sight sit comfortably within the scheme. I believe that that is a fair process and enhances Jersey's international profile and shows that we are dealing with these cases fairly. The previous Chief Minister and I have reiterated a public apology to those who were abused while they were in the care of the States and I believe also that that shows that we are a responsible jurisdiction and take our responsibilities seriously. I will be shortly coming forward with terms of reference for this Assembly quite rightly to consider with regard to a Committee of Inquiry and Members know that there will be a person from the United Kingdom in the Island on Thursday giving a second rethink on potential terms of reference for that Committee of Inquiry. So I believe that we are playing our part and that we are acting responsibly and if other allegations come forward in due course, they will be dealt with appropriately as well.

#### **2.5.4 Deputy T.M. Pitman:**

Just to go back to the question, there has been no public statement as such because Jersey was already mentioned again last night in the TV programme and it is going to be mentioned again at present about the Jimmy Savile connections to Jersey.

#### **The Deputy Bailiff:**

I think, Chief Minister, the question is will you be making a public statement about the allegations of Mr. Savile's connection with Jersey?

#### **Senator I.J. Gorst:**

I do not intend to at this point. Of course, I will be coming forward with terms of reference for a Committee of Inquiry, which I would expect to deal with individuals and particular circumstances. As I have said, individuals that feel they are entitled to compensation and redress can make application to the scheme. Allegations which require a police investigation should be passed to the police and, as the Deputy I am sure knows, the States of Jersey Police are working with the Metropolitan Police as part of their review and I think that is also the right thing to do.

[10:15]

#### **2.5.5 Deputy M.R. Higgins of St. Helier:**

Can the Chief Minister just clarify that? Is he saying quite definitely that the States of Jersey Police are working with the Met. and providing them with information?

#### **Senator I.J. Gorst:**

Yes, that is indeed my understanding.

#### **2.5.6 Deputy M. Tadier:**

It is really the second part of the question which I think needs to be addressed. It was understood when the Committee of Inquiry was to be brought in, it was on the basis or it certainly was the case that all of the prosecutions that were to be made would have been made and there were no live prosecutions. It now seems that the current revelations in the U.K. are going to open up potential further prosecutions within the Island. Would the Chief Minister comment on whether this is an issue and whether or not the Committee of Inquiry can run parallel to any further new revelations and new evidence that have come out with regard to the likes of Savile and Bramble and others?

#### **The Deputy Bailiff:**

The question is not about prosecutions, which is not a matter for the Chief Minister, but is a question about whether the Committee of Inquiry will cover this issue, is it?

#### **Deputy M. Tadier:**

Clearly, Sir, I am not trying to get into the area of the courts but clearly there is an issue because it was understood - and we have been briefed in States Members briefings and I suspect the Chief Minister knows where I am coming from with this question - that there is an issue about having a Committee of Inquiry while there are potentially still live and new prosecutions going on.

**Senator I.J. Gorst:**

I fear to answer that question because you are better versed in the court system than I am. The Deputy makes a very good point about a Committee of Inquiry being in place when there are potential prosecutions or ongoing prosecutions although I fail to see how, with regard to the allegations around Mr. Savile, he being deceased, I am not sure quite what form the prosecutions would take in that instance. However, I should say I feel - and Members will point the finger directly back at me - that we have waited a long time for the Committee of Inquiry and I hope that once we have had the second briefing later this week, we can come forward and make the positive decision to start that inquiry but we will have to be mindful, as the Deputy says, of any possible future cases coming forward.

**2.6 Deputy G.P. Southern of St. Helier of the Minister for Transport and Technical Services regarding the tender process for the transfer of the bus contract to CT Plus:**

In dealing with the tender process for the transfer of the bus contract to CT Plus, did the Minister adhere to the conditions laid down by the Environment and Public Services Committee in their response of 30th August 2005 to Recommendation 4 of the Committee of Inquiry into the tender process and award of the Bus Service Contract back then?

**Deputy K.C. Lewis (The Minister for Transport and Technical Services):**

Full details of the relevant provisions are set out in my response to Deputy Southern's written question 7151 tabled today. It can be seen from that response that the tender specifications fully met the requirements laid down. My officers are now employing their endeavours to facilitate the transfer of staff so that continuity of service for future statutory redundancy, unfair dismissal and notice purposes are protected. Key contractual terms and conditions will be mirrored or enhanced. The work is ongoing. Given the agreement reached at the mediation meeting on 10th October 2012, it would not be appropriate for me to go into further details about matters which the relevant parties are now addressing together.

**2.6.1 Deputy G.P. Southern:**

Could the Minister explain why, in his extensive documentation, whereas under point 6 it says: "We will not change any of the staff terms and conditions we have been made aware of in the first stage of tender documents for the first 9 months of the contract." How does that match with point 10: "The transfer would be on the basis of new terms and conditions in order to ensure that the present needs of Islanders were met." What were these new conditions and what were the needs of Islanders that needed them to be changed?

**Deputy K.C. Lewis:**

Clause 18.3 predates the Employment (Jersey) Law 2003. Therefore, it is understood that any interpretation of taken on and transfer implied by that law cannot be applied to the clause. CT Plus will recognise the continuity of service of all eligible employees that transfer for future statutory redundancy and dismissal purposes. The base contractual terms and conditions will be preserved such that basic pay and hours will remain the same as at the point of tender. Interviews for staff are not required and probationary periods will not apply. The process has been frustrated by difficulties in communication with staff and the lack of some employment information. Mediation

agreement has been reached and this is confidential to the parties. This is a dynamic situation at the moment. Progress is being made to providing the Island with the modern bus service it deserves.

#### **2.6.2 Deputy G.P. Southern:**

The Minister appears to have contradicted himself within a 5-minute period. He said earlier that transfer of staff with service provisions was ongoing and then he said that it has all been settled. Which is the case?

#### **Deputy K.C. Lewis:**

It is in the process of being settled now. The meetings are ongoing.

#### **2.6.3 Deputy R.G. Le Hérisier:**

Would the Minister confirm that some of the conditions, in fact, were informal working arrangements and that he was faced with a considerable conundrum in the sense that it appeared a lot of staff or some staff were working hours considerably in excess of what Health and Safety required and what, for example, is cited on the national website of the union Unite? Would he not accept that he inherited a very messy situation and that some of these arrangements were informal and that they were not formal conditions in terms of work?

#### **Deputy K.C. Lewis:**

I would agree with the Deputy wholeheartedly.

#### **2.6.4 Deputy G.P. Southern:**

Using the Minister's own words, what responsibility does the Minister accept for his failure to learn from the trials and tribulations of the previous contract change and to address and minimise the risks associated with the transfer process this time? There was seemingly a failure. Here we are a fortnight on from the 10th October meeting and we have had a strike. Surely the Minister must agree that he has not succeeded in minimising risks.

#### **Deputy K.C. Lewis:**

Under the circumstances, I think things have gone very well. Great play has been made of clause 18.3 on the expiry of the contract or early termination, I will not go through the whole thing, but is taken over on existing terms. But the proviso is: "Provided always that the contractor shall fully co-operate with both the committee and the incoming service provider by providing them both with such employee information as is reasonably necessary for the committee to compile any tender documentation and for bidders properly to price their bids." That was very slow in forthcoming. There was a document I have here from Deputy Southern as of several weeks ago which is... I believe it could be one of the driver's documentations. Employee name redacted, address redacted, salary redacted, pensions redacted. This was insufficient information for the bid to be compiled. This is why we have the problems now. This is why it is all being sorted out and while I am on my feet, I would like to thank J.A.C.S. (Jersey Advisory and Conciliation Service) for facilitating the move forward. **[Approbation]**

### **2.7 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the decision to award the contract to Danwood for the Managed Print Tender Contract:**

Will the Minister advise whether Danwood was consistently scored lower than at least 2 other competing companies during the assessment process for the Managed Print Tender Contract and if so, on what basis was the decision to award the contract to Danwood made?

#### **Deputy E.J. Noel (The Assistant Minister for Treasury and Resources - rapporteur):**

Danwood did not score consistently lower than the other competing companies. Overall against the evaluation criteria, they provided the best option. The high level evaluation criteria used was based on 3 elements and weightings as follows: technical response, 30 per cent; customer feedback from pilot schemes, 20 per cent; commercial proposal, i.e. price, 50 per cent. Further, it is disappointing that the Deputy has not taken up the offer of meeting the procurement team in order to be fully briefed on the Managed Print Project. It is also concerning that the Deputy chooses to be advised by sources not party to the complete process. A detailed understanding of the procurement and associated decision making would have allayed any concerns that the Deputy may have. I repeat the offer for him to meet with the corporate procurement team to gain such an understanding.

### **2.7.1 Deputy M.R. Higgins:**

It might interest the Deputy, I think I have read more documents about this than he has, including internal documents and I will say to him that on 2 of the previous... the Assistant Minister is saying that Danwood scored - and he gave the scores out there - higher than the others. There were at least 2 other assessments - and I have seen them - which Danwood scored not even in the top 3. It should not have even been there but it suddenly miraculously appears in the final tender as the company that comes out highest. I might also add for the benefit of Members, the internal Treasury report is also quite critical of this contract. It shows, for example, unlike what the Assistant Minister for Treasury and Resources said, that this contract he was pleased with its progress and so on, it is highly critical and it even questions whether the savings will be made. Has the Assistant Minister seen the internal Treasury report and is he also aware of these criticisms of that contract?

### **Deputy E.J. Noel:**

I am afraid that this is a case of a little knowledge is a dangerous thing and, again, I implore and invite Deputy Higgins to come in and meet with the procurement team. In answer to his question, I have seen the documentation. I have seen substantial amounts of documentation on this, including the reports that he refers to. I do believe it is a case of having partial information. The Deputy needs to have the full information and therefore again I invite him in. For Members' information, we are providing a substantial amount of information to P.A.C. (Public Accounts Committee) so they can also look at this matter.

### **2.7.2 The Connétable of St. John:**

Is the Assistant Minister happy with a contract of this size going off-Island in the big part and thereby within their calculations of the loss to the Island of manpower, i.e., the many redundancies that are likely to occur - and I was notified only yesterday of possibly some 14 people in one supplier alone being made redundant - were all those figures taken into account when they gave this contract out? Because if one company alone goes to the wall and we have 14 extra people put on the dole, we may be shooting ourselves in the foot. Were all those areas covered please?

### **Deputy E.J. Noel:**

In short, yes, and I can confirm that all on-Island support is done through local labour so there has been no importing of labour from outside the Island to support this contract.

### **2.7.3 The Connétable of St. John:**

I do not think the Assistant Minister quite got my message across. The idea was did they look at any redundancies that might come out of putting this contract off-Island, given the amount of work that was done on-Island previously now will be done off-Island? Was that put in the equation?

### **Deputy E.J. Noel:**

Any contract of this nature, and it is probably the largest contract of its size within the Island, whoever wins that contract will have secure employment for their employees. Unfortunately, those

who do not win the contract may not have the same case. This contract is being supported by local staff living and working in the Island.

**2.7.4 Senator L.J. Farnham:**

I am presuming that the papers in relation to these sorts of issues are commercially confidential. Is the Assistant Minister therefore surprised if not concerned that the Deputy is claiming to have read all of these papers?

**Deputy E.J. Noel:**

Concerned but not surprised.

**2.7.5 Senator S.C. Ferguson:**

In view of the fact that Jersey Property Holdings are dealing with a co-ordinated group of local suppliers working together, has the Assistant Minister not considered that such an approach would have been appropriate in the case of photocopiers and printing? Has he also not considered that with the breadth of experience that Deputy Higgins has in purchasing that it might well have been worth taking his comments a little more seriously? Sorry, there are 2 questions there.

[10:30]

**Deputy E.J. Noel:**

I do take Deputy Higgins seriously, and that is why I invited him on repeated occasions to meet with the Corporate Procurement Team so he can have a full understanding and see all the documentation and then he can make up his mind in an informed way. With regards to Property Holdings and using local labour, that is exactly what has happened in this case for all of the support of this contract is done locally.

**2.7.6 Senator S.C. Ferguson:**

The Deputy has not answered the question. I understand that with some of the maintenance there are 2 or 3 local firms who are working together in co-ordination and has the Assistant Minister not considered looking at this sort of arrangement for something like printers and photocopiers which are fairly basic?

**Deputy E.J. Noel:**

They are not basic pieces of equipment any more. They involve a high level of I.T. (information technology) input. We do not manufacture such equipment on Island, nor would we wish to. Therefore, it is the support and maintenance of such equipment that is important and that is what is taking place on Island.

**The Deputy Bailiff:**

Final supplementary.

**Deputy M.R. Higgins:**

Deputy Vallois has a question and I will ask for supplementary, if I may.

**2.7.7 Deputy T.A. Vallois of St. Saviour:**

Will the Assistant Minister advise when the Public Accounts Committee will be furnished with the relevant documents further to my request over 2 weeks ago?

**Deputy E.J. Noel:**



I will look into that. I thought the P.A.C. had been sent the information. The individual that deals with this is on holiday at the moment so I will check on that and make sure the information gets to PAC shortly.

**2.7.8 Deputy M.R. Higgins:**

Will the Assistant Minister confirm a number of facts? First of all that the £250,000 saving attributed to this contract are figures supplied by Danwood and not from an internal or any assessment made by the States. Secondly, that the States are going to be paying at least £47,000 in cancellation charges to one of the other suppliers for machines that have been taken out early as a result of this contract and there could be many others. In fact, can he also confirm that the States are trying to keep some of the existing supplies of machines to avoid those costs? Finally, does he not think that the whole process which he claims has been handled under the O.G.C. (Office of Government Commerce) rules has not in fact been handled under the O.G.C. rules for tendering?

**Deputy E.J. Noel:**

As far as I am aware, the O.G.C. rules have been complied with and the body in the U.K. has advised extensively on this contract. Again the only way to allay the Deputy's fears on this is for him to come and meet with the individuals concerned. With regard to the savings, Treasury has put their slide all over those savings and are happy that those savings will be met. This project is a large project and is being rolled out in phases so, yes, at this current moment in time we are using other equipment from other suppliers and those contracts are being phased out. In some instances, it has been necessary because of the nature of those contracts to buy the States out of those contracts.

**The Deputy Bailiff:**

I suspect you are about to come back either with another question or a speech and we have finished that part of the questioning.

**Deputy M.R. Higgins:**

I think the Deputy may have inadvertently misled the House. The Treasury Report does not state, as he says, that they are going to meet the savings. They have major concerns about whether they are going to meet the savings.

**Deputy E.J. Noel:**

That is contrary to the information that I am given.

**Deputy M.R. Higgins:**

I will publish the reports.

**The Deputy Bailiff:**

It is clearly not going to be resolved this morning. The next question is Senator Ferguson to ask of the Minister for Health and Social Services.

**2.8 Senator S.C. Ferguson of the Minister for Health and Social Services regarding support for those suffering from addictions in the Island:**

Why does the Health and Social Services White Paper *Caring for Each Other, Caring for Ourselves* and indeed, P.82/2012 Health and Social Services: A new way forward fail to address what support there will be for those suffering from addictions in the Island?

**Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

I would like to thank the Senator for asking this important question and I would like to reassure her that supporting healthy lifestyles is a key priority in both the White Paper and the report and proposition. Evidence has shown that Jersey has a particular problem with alcohol consumption and that is why it is prioritised in the first phase of the developments. The Alcohol Pathway that has currently been developing pending States approval of this proposition will include early intervention services in order to prevent serious harm to people's health in the future. That is why taking action in this critical area is important and that is why this proposition before us is vital.

#### **2.8.1 Senator S.C. Ferguson:**

Yes but the Minister only refers to alcohol being the main issue but there is also the question of substance abuse and drug addiction, which is possibly even bigger, but there is no work which has been done to indicate the size of the problem since the Imperial College Review in 2001. When is that going to occur?

#### **The Deputy of Trinity:**

Again, I would like to reassure her that if she looks at pages 41 and 42 of the proposition, illegal drugs are prioritised for 2019 to 2021. In the meantime, we need to recognise that this proposition sets out service developments that are in addition to existing business as usual. Health and Social Services Drug and Alcohol Service already provides a range of support to addicts focusing both on abstinence and harm reduction as there are a number of voluntary and community based organisations supporting that problem.

#### **2.8.2 Deputy J.G. Reed of St. Ouen:**

I would just like to ask the Minister for Health, given the response that she has just given with regard to addressing drug addiction in 2019; does she believe that in the meantime sufficient attention is being paid to helping those suffering with drug addiction? If not, will she be prepared to advance efforts to address this matter before the proposed period of 2019, which ultimately is nearly 6 years away?

#### **The Deputy of Trinity:**

As quite rightly said, it is a concern, but also I would like to reiterate there are some services in place and with business as usual it will continue to do the developments. But our priority at this moment in time was the Alcohol Pathway because we know that alcohol is a big problem in our Island. You only have to go to Liberation Square on Friday and Saturday nights... If I could advise of any further development, I would be very happy to but it does come at a price but if you look on pages 41 and 42, it is highlighted.

#### **2.8.3 Senator L.J. Farnham:**

I wonder if Minister for Health is aware or has statistics of the extent of illegal drug addiction in the Island and if so, would she consider sharing that with the Assembly?

#### **The Deputy of Trinity:**

I do not have the exact statistics but I am sure the Medical Officer of Health would only be too happy to give that information out to States Members because previous M.O.H. (Medical Officer of Health) reports have always identified that Jersey has a big problem and with the Jersey Annual Social Survey done each year, the number of people that do fill in the forms say they are increasing and their drinking is going up. Therefore, it is important and we need to address it.

#### **2.8.4 Senator S.C. Ferguson:**

The Minister is well aware that the quantity of alcohol being imported, according to the impôts, is falling but that is another story which does not quite gel with her facts. But the Scrutiny Panel made

some specific comments and some specific recommendations with regard to addiction problems. Will the Minister confirm that her department will be following those up and in fact complying with them?

**The Deputy of Trinity:**

I am very grateful for the Scrutiny Panel's review and under-21 recommendations and, yes, we will be replying to that, but regarding alcohol, I know that Senator Ferguson is very interested in it and has had meetings with the Medical Officer of Health and indeed, her question on Tuesday, 17th April, highlighted the response from the M.O.H. that it is a serious problem.

**2.9 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding consultants renting out Health and Social Services facilities for private work:**

What revenues, if any, were received in the last financial year from consultants renting out Health and Social Service facilities for private work and how do the rules governing such work about the use and rental of publicly owned facilities differ from those in the United Kingdom?

**The Deputy of Trinity:**

My Assistant Minister will answer this.

**Connétable J.M. Refault of St. Peter (The Assistant Minister for Health and Social Services - rapporteur):**

I can confirm that Health and Social Services does not charge rental for any of its facilities and services to private consultants, so therefore the answer to the question is none. The indirect answer to the question is we charge the patient. The private patient either pays directly or the charges are transferred as a cost recovery exercise to the health insurance provider.

**2.9.1 Deputy R.G. Le Hérissier:**

Could the Assistant Minister also answer the other part of the question? Are the conditions a replica of those found in the National Health Service?

**The Connétable of St. Peter:**

I apologise to the Deputy. I did not pick up the second part of his question. No, they are not because in the U.K. it is quite different as there are a number of private hospitals in the U.K. which deliver the private patient care in the United Kingdom. We do not have that facility here in Jersey.

**2.9.2 Deputy R.G. Le Hérissier:**

Is the Assistant Minister not aware that while in a narrow sense there may be profits made from this, it is obviously a source of great concern to people who are on very, very long H.S.S (Health and Social Services) waiting lists and after an interview with a consultant, they are told that they can be put on a list which will, at a price, get them the same operation within one or 2 weeks. How are consultants able to do this in the current system?

**The Connétable of St. Peter:**

There are 2 types of consultants. There are the ones which are based locally and the ones that come in from the United Kingdom to offer services to our population. With regard to the waiting list, they are often reduced by visiting consultants, as part of the contract of services to operate within the General Hospital is that they must also treat people on the public list and it is on the balance of about 30 per cent to 70 per cent are required to do that as their contribution to the public list, which does help to reduce the waiting list times. On Island consultants that are offering speedier services

to private patients, that is done in their down time and the down time of the systems that they use within the hospital.

### **2.9.3 Senator S.C. Ferguson:**

This is all very interesting but are the terms and conditions of the consultants being reviewed to ensure that they do comply and provide the percentage of public service that they should? Would the Assistant Minister like to confirm what percentage of their time is meant to be spent on public work and would he also confirm that the terms and conditions are going to be reviewed because there are anecdotal stories of consultants spending all their time on private work and spending very little time on public.

### **The Connétable of St. Peter:**

This is rather complex but I thank Senator Ferguson for raising it. Certainly, there is a service level for consultants and consultant surgeons that are employed in Jersey to provide a minimum level of services obviously to the public list. There are no restrictions that I am aware of for them for the amount of work they do on their private list. That is a matter between them and their patient. There was another part of the question. Could the Senator please remind me?

### **Senator S.C. Ferguson:**

Are the terms and conditions going to be checked because I do not think the Assistant Minister said what percentage of their time consultants are meant to spend on public work?

[10:45]

### **The Connétable of St. Peter:**

I think I have answered that final part of the repeated question. The consultants are required to spend all their time while they are employed in the General Hospital on the public work. Private work they do is outside of their contract with the Health and Social Services. With regard to the governance of consultants, that is work which is constantly being reviewed by the General Manager at the hospital and Health and Social Services and as part of the reviews and ongoing work, to look at the relationships between primary care and the consultants, whether there are ways in the future that in working together we can streamline the work to increase the workloads of the consultant surgeons to get them into operating theatres for longer times rather than seeing patients as pre-assessments which could be delivered from another source.

### **2.9.4 Senator S.C. Ferguson:**

Does the Assistant Minister mean that consultants spend 100 per cent of their working time, which on a 5-day 8-hour week of 1,820 hours a year, is that the amount of time they spend on public work, in which case how on earth do they have time to spend on private patients?

### **The Connétable of St. Peter:**

There is an understanding generally that it is a loose figure and the split is something between 30 per cent and 70 per cent. In other words, 70 per cent of their time must be totally dedicated to the public list and 30 per cent to the private list, if those are the figures the Senator is looking for.

### **2.9.5 Deputy J.A. Hilton of St. Helier:**

The Constable referred to a loose understanding. I think that is quite alarming. Coupled with the fact that the theatres are operating at way over a level that would be accepted in the U.K. it seems to me that terms and conditions that the consultants are employed under at the moment should be looked at again. It cannot be acceptable in this Island for a private patient to be able to get a hip replacement within 4 weeks and a public patient to have to wait 10 months. It is just not acceptable.

**The Deputy Bailiff:**

Do you have a question?

**Deputy J.A. Hilton:**

The question is: does the Constable believe that it is time to look at the terms and conditions that currently the consultants are employed by?

**The Connétable of St. Peter:**

As I said in my answer to the previous question: that is ongoing work which is being done by the General Manager at the hospital all the time, constantly reviewing all the terms and conditions and arrangements for consultant surgeons. In answering the Deputy's question, if we were to exclude, for example, all private work from the hospital, then those people who would have gone privately would only go on to the public list and increase the length of that list.

**Deputy J.A. Hilton:**

I suggest that those private patients would probably go to the U.K. for their treatment which would allow the public patients a better chance of being treated a little more quickly.

**2.9.6 Deputy M.R. Higgins:**

Part of my question has already been answered but could the Assistant Minister tell us if the operating theatre is used on a Friday in the General Hospital or is it just used for private patients on a Friday?

**The Connétable of St. Peter:**

I have no knowledge that the operating theatres are exclusively used on Fridays for private patients. I have no evidence for that. However, I will ask the question on behalf of the Deputy of the General Manager at the hospital and if that is right, I will come back and confirm that to him.

**2.9.7 Deputy R.G. Le Hérisier:**

In the light of comments by Senator Ferguson, Deputies Hilton and Higgins, would the Assistant Minister not acknowledge that we are making, myself included, a fuss for example about bus drivers' overtime and yet here we have a situation where there appear to be informal conditions where large amounts of public time are being used for private work? We are renting out facilities, public facilities, cost free to people to use for their own private business. Is he satisfied that this is the way to go forward?

**The Connétable of St. Peter:**

No, I am certainly not satisfied that we provide services cost free because we do not. We apply a cost recovery but we do not apply a profit on top of that.

**2.10 Deputy T.M. Pitman of the Chief Minister regarding a review by the Legislation Advisory Panel of the terms of Article 3 of the Royal Court (Jersey) Law 1948 and the appointment process for Jurats:**

Further to his response on 11th September 2012 that the Legislation Advisory Panel was looking at certain aspects of the terms of Article 3 of the Royal Court (Jersey) Law, would he clarify whether this will include the appointment process of the Jurats?

**Senator I.J. Gorst (The Chief Minister):**

I am asking my Assistant Minister, who is the Chairman of the Legislation Advisory Panel, to respond.

**Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

I hope that these questions from the Deputy about Jurats have nothing to do with the fact that he and his wife recently brought an action for defamation against third parties and failed, because the Deputy must know that if he is dissatisfied with the outcome of his case or wishes to allege bias against any member of the court, he has a remedy and that remedy is to appeal to the Court of Appeal. If these questions about Jurats are entirely coincidental, the answer to the question is that the Legislation Advisory Panel is not looking at the appointment process for Jurats.

**2.10.1 Deputy T.M. Pitman:**

Yes, again it is very disappointing that the Senator seems to be sliding into these - what I have to say - personal attacks and trying to muddy the waters. I have every right as a States Member to ask about issues that concern a great many people and the Jurat system is very, very flawed. If I can just bring the Senator back to the real world, one of the key problems with the Jurat system is that it fails miserably in terms of providing a broad cross section of society, certainly in terms of ethnicity and class. I do not think any of that has anything to do with this but does the Assistant Minister not agree that if we had an appointments body certainly separate from former Crown Officers, a lot of that could be avoided and we could establish a broader base so people can have the right to a fair trial in line with Human Rights Article 6?

**Senator P.M. Bailhache:**

I made that observation because the judgment in the Deputy's case was delivered on 10th May 2012 and since then, he has asked questions about Jurats on 15th May, 10th July, 17th July, 11th September, 25th September and a number of questions also during October. I draw the Deputy's attention to paragraph 4 of the Code of Conduct for Elected Members: "Elected Members should base their conduct on a consideration of the public interest, avoid conflict between personal interest and public interest and resolve any conflict between the 2 at once and in favour of the public interest." I see at the moment nothing untoward about the appointment process for Jurats. Any person is eligible providing he or she meets the criteria for appointment as a Jurat and can be proposed by a Member of this Assembly or any other Member of the Electoral Assembly. The Chief Minister has said in answer to a written question that his mind is not closed to a review of the appointment process for Judges. Indeed, work has been continuing since the second interim report of the Constitution Review Group by the Law Officers' Department in that respect, but there is nothing untoward or unacceptable about the current process for the appointment of Jurats.

**Deputy G.P. Southern:**

I believe the Senator has just been allowed to impugn the motives of a Member and I would ask that he withdraw those statements.

**The Deputy Bailiff:**

What was the impugning?

**Deputy G.P. Southern:**

He is saying that the only reason why Deputy Pitman is asking these questions is of personal interest and not wider public interest when in fact the appointment system for Jurats is of public interest, clearly.

**The Deputy Bailiff:**

I understood the Senator to express the hope that the 2 things were not linked and that was not making any allegations of impropriety.

**Deputy G.P. Southern:**

That is an excellent rhetorical device.

**Deputy M. Tadier:**

If I may comment? If it is being expressed that the 2 are not linked, there seems to be an insinuation that they are not and if there is no insinuation, it seems to be entirely irrelevant to the question being asked. Therefore, it seems to be out of order on one or other counts of either being irrelevant or impugning a Member's motive because there should be no question that the question being asked - which is in order and has been passed by the Bailiff - is of public interest and there should not be any suggestion that there is an underlying personal motivation other than the public interest.

**The Deputy Bailiff:**

Deputy, the Chair is very reluctant to interfere on the grounds of relevance in this Assembly, I can assure you.

**2.10.2 Deputy M.R. Higgins:**

I must admit from where I was sitting I thought he was impugning the Deputy. Does the Assistant Minister not accept that many people do have concerns about the Jurat system and it has not been reviewed for many years? In the United Kingdom, many Magistrates and others have gone through a major review to make it more accessible to other members of the community other than those who currently make up the Jurat seats.

**Senator P.M. Bailhache:**

I hoped I made it clear to the Assembly that a review is under way at the present time and this matter is being looked at in the Law Officers' Department. My answer to the question was that the Legislation Advisory Panel does not have it on its agenda at the moment but the matter is being looked at in the Law Officers' Department.

**Deputy M.R. Higgins:**

I also asked, does he not accept that others have concerns about the Jurat system other than Deputy Pitman?

**Senator P.M. Bailhache:**

I do not know how many people have concerns about the appointment system for the appointment of a Jurat. All I am saying is that I have no concerns.

**2.10.3 Deputy J.M. Maçon of St. Saviour:**

The Senator commented that the Law Officers are working on a report. Is the Senator able to tell us what timeline they are working to and when that is to be delivered?

**Senator P.M. Bailhache:**

I did not say that the Law Officers are working on a report. I said that a report of the Constitution Review Group had been laid before this Assembly in 2008 and that among the recommendations of that report was that consideration be given to the setting up of a Judicial Appointments Commission. That is the work that is being undertaken by the Law Officers' Department at the moment because of course there are a number of options which could be followed.

**2.10.4 Senator S.C. Ferguson:**

It is of public interest but not perhaps in the same light. It occurs to me that with all the changes we are making in retirement ages, perhaps we should be looking at that in relation to Jurats and so on because at the moment there is a fixed retirement age, but if we are putting up the normal retirement age, perhaps we should let Jurats work a bit longer and get a bit more work out of them.

**Senator P.M. Bailhache:**

The retirement age for Jurats was 70 at one stage and a short while ago that was increased to 72 although Jurats can, at the request of the Bailiff, come back to act in a particular case until they reach the age of 75. I hear what the Senator says and the closer I get to these particular ages, the more I think they have merit.

**2.10.5 Deputy M. Tadier:**

The Assistant Chief Minister said that there was nothing untoward in his opinion about the appointment process of Jurats. Can he answer the question whether he knows of any other jurisdiction in the world where the legislature and a group of advocates appoint members to the Royal Court or the courts?

**Senator P.M. Bailhache:**

I think there is only one other jurisdiction in the world so far as I am aware that has Jurats and that is Guernsey and there is an electoral body which I understand is very similar to the electoral body in Jersey which appoints Jurats in Guernsey.

**2.10.6 Deputy M. Tadier:**

A supplementary, if I may. On the untoward subject - and in my dictionary that also means inappropriate - does the Assistant Chief Minister consider, given the fact that this has not yet been looked at but will be looked at, it is too early to say whether or not there is something inappropriate about the way in which Jurats are appointed, given that he should be keeping an open mind on the subject and balancing up the fact in the modern day whether it is appropriate to have a separation of powers between advocates, States Members and those in the Royal Court?

**Senator P.M. Bailhache:**

When Ministers are questioned on the floor of the Assembly they have to express views and those views are very often subject to review if circumstances change or if other arguments are brought to bear. So far as the Jurat system is concerned, I think that Members should be aware that when visiting judges from the United Kingdom come to preside over the Royal Court and are introduced to the Jurat system for the first time, they are invariably enormously impressed with the division of responsibility between lay members of the court and professional judges which is inherent in our constitution.

[11:00]

We have nothing at all to be ashamed of in the context of our composition of the Royal Court. On the contrary; we have something in which we can be extremely proud.

**2.10.7 Connétable J. Gallichan of St. Mary:**

Notwithstanding the desirability or otherwise of any review - and I personally believe that it is healthy to review all things from time to time - would the Assistant Minister not agree with me that despite reservations expressed by Deputy Pitman, there is in fact a broad range of personal experience and background expressed by the Jurats currently and in the immediate past? This, in fact, is open to all people who desire to make this incredible commitment to the Island irrespective of ethnicity or any other characteristics.

**Senator P.M. Bailhache:**



I am very grateful to the Connétable for that question and I entirely agree with everything that she has said. The Jurats put in an enormous amount of time and work in the exercise of their functions for no reward and the Island should be and I believe is extremely grateful to them. **[Approbation]**

**2.10.8 Deputy T.M. Pitman:**

I do have to point out that the Senator - and I suppose it is unfortunate that you are brothers - but the Senator only a couple of weeks ago inferred, just because I highlighted his unprofessionalism with the bogus submissions to the Electoral Commission, that a member of my family was involved. Completely untrue. I became interested in this issue when I finally got hold of the Sharp Report which I was banned from and I think perhaps, with due respect, there might be a bit of a smokescreen here because this does highlight the problems I talk about. What other jurisdiction in the world would allow an individual to sit who has helped conceal child abuse? I have to say the Crown Officers in this Chamber now have done nothing about that for 14 years. That is where my concern originates from and just so the Senator is assured, I would tell him that yes, I was very concerned when I found out that such a Jurat had sat on my case but I did not find out that until I got the Sharp Report, which is banned by his Council of Ministers. Does he not agree that those are problems that need to be looked at and it is something to be embarrassed about?

**Senator P.M. Bailhache:**

May I first of all make it clear that I am in no sense impugning the integrity of Deputy Pitman. I am merely expressing the hope that all these questions about Jurats have nothing to do with his own personal experience. The Deputy has an unfortunate habit of making outrageous allegations and clothing them in the language of fact but there has been no concealment of child abuse at Victoria College or, so far as I am aware, in any other school. The document to which he refers is a document which was considered by all the authorities, by the Education Committee of the day, subsequently by different Ministers and there is nothing in that report which I think gives rise to any question of concern.

**The Deputy Bailiff:**

If I may just add, Deputy, that as you included within that question some quite serious allegations against Crown Officers, I could just add that the Crown Officer of the day, the Attorney General, the current Bailiff, was the person who insisted that report be sent to the Education Committee for consideration and I think that ought to be made public.

**Deputy T.M. Pitman:**

Thank for that. I do have an interest because it was a colleague of mine who blew the whistle on the Jervis-Dykes affair so I am very concerned about it.

**2.11 Deputy G.P. Southern of the Minister for Transport and Technical Services regarding the impact of European Commission investigation into Erewash CT.**

Is the Minister aware that Erewash CT, a sister company of CT Plus, is being taken to the European Commission in Strasbourg on the grounds that it is in receipt of unlawful state aid contrary to European law and if so, what impact, if any, might this have on the bus contract?

**Deputy K.C. Lewis (The Minister for Transport and Technical Services):**

No impact whatsoever. They are completely separate companies. I am not sure where Deputy Southern has got this from but I think a 7 year-old with the internet could have sorted this out in 5 minutes. CT is a generic term as FC is a generic term. Luton FC is no relation to Bolton FC. It means Football Club. CT means Community Transport and there are over 2,000 companies that

have this. I reiterate there is no link whatsoever. Erewash, and apologies if I have mispronounced the name, is a borough council in Derby, I believe. Erewash Community Transport is totally unrelated to CT Plus. It is not a sister company of CT Plus. There is no company link, no organisational link, no legal link or any operational link with this company and CT Plus or any other company within HCT Group. In the U.K. there are approximately 2,000 CT organisations and as far as we know, approximately 1,995 of these organisations are not related to CT Plus in any way whatsoever. Erewash CT falls into that position. It has no relationship with CT Plus whatsoever.

**2.11.1 Deputy G.P. Southern:**

I thank the Minister for his answer. He obviously made good use of his 7 year-old. The point is, do they operate in similar ways? Is CT Plus, for example, in the same position as Erewash CT being registered as a charity and therefore, not subject to corporation tax?

**Deputy K.C. Lewis:**

That was a very wild one. I have very little knowledge. As I say, I know it is Erewash Borough Council in Derby. I have no knowledge whatsoever how they work but CT Plus, as far as I know, will be registered in Jersey and will pay Jersey taxes.

**2.11.2 Deputy G.P. Southern:**

And will not be a charitable institution in receipt of charitable grants which enable it to underbid other companies in the transport sector in order to win contracts.

**Deputy K.C. Lewis:**

I will need to check that out but not to my knowledge.

**2.12 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the employment of a public relations contractor by his Department:**

Is the Treasury tendering for its own public relations contractor and if so, why, when there is already a States Communications Department?

**Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

The answer to that is yes. The Treasury mainly uses the States Communications Unit and values, like many other departments, the work that they do. However, just as a number of other departments have, Treasury has a number of peaks and troughs of workflow, which means that external resources are sometimes needed to supplement the skills and the time that the Communications Unit have available for us. The Treasury aims to be as open and transparent and accessible as possible. Communication support is needed to support these objectives, particularly with the use of the States website, which is often a more cost effective way of communicating than, for example, buying in expensive advertising. I am sure, as Members will have noticed, the website for Treasury has improved substantially in recent months. More information on tax, pensions and other matters is now available to Islanders directly so that they have access in order to manage their own affairs. In recent months, the Treasury has also published some of the most comprehensive set of reports; for example the M.T.F.P. (Medium Term Financial Plan) and it has also communicated this in a number of different areas. We have also issued and communicated a 6-monthly report and we are also making huge changes in areas such as online filing for the Income Tax Department. Effective communication is part of the changes that are in place at the Treasury and they are designed to save money, but also to deliver a better standard of service to Islanders increasing transparency and improving the level of communication with States Members and, of

course, the public, so supplementing the Communications Department and their excellent work is part of that process.

**2.12.1 Senator S.C. Ferguson:**

In the tender document most of the requirements are looking at internal communication, a departmental profile of the Minister for Treasury and Resources and the Treasurer's external engagements. That is for the local people, for the internal department, a departmental profile of the authorities' departments and employee achievements. There is a whole long list of them. Does the Minister for Treasury honestly think that he needs a communications contractor for the work that is being done to advertise the work of the Treasury within the States system?

**Senator P.F.C. Ozouf:**

I would have thought that Senator Ferguson would want us to communicate what the Treasury is doing and what the Treasury is trying to achieve within Departments. She and I, I think, would be as one in wanting to celebrate, identify ways that the States is saving money, to celebrate success, to say how good practice has been found in some Departments and to explain how other departments can work with that. Also, assisting the Chief Minister in what he is doing and his department is doing, is building better teamwork within the States of Jersey. That is what this is about and this is about delivering value for money in the £650 million per year that we spend and I, as Minister for Treasury and Resources, have to account for to a large extent in terms of the way it is spent.

**2.12.2 Senator S.C. Ferguson:**

The Ministry for Treasury and Resources has not answered because in effect he should perhaps look at what Scrutiny does, which is use our internal staff who have a much better idea of what is going on and how to communicate it. Does the Minister for Treasury and Resources not realise that having a Communications Services contractor looks very much like spinning to the world in general?

**Senator P.F.C. Ozouf:**

This use of the word "spin" is extremely interesting. Many people would say that many faith texts, many great works of art and many things in life are spun. I do not quite understand this word "spin". We are in the business of explaining complex information, complex issues simply and sometimes my Treasury staff and I are not very good at doing it in plain English. Sometimes we are so engrossed in the detail we need to raise it up and to put it into plain English like very much the details that we are publishing today in relation to corporate tax, trying to distil it into ways that people can understand and then make their own minds up about it. It is not about spinning; it is about being transparent and about communicating and that is what I am elected to do. That is how I am trying to improve communication within the Treasury and, frankly, if Senator Ferguson does not like it, then she has got the wrong Minister for Treasury and Resources.

**2.12.3 Deputy G.C.L. Baudains:**

I am always interested by the word "transparency" because I can usually see through most things. What I do not understand here is that the Minister for Treasury and Resources, who usually seems eager to advise most people on a wide range of issues, cannot now do his own communication which he has effectively been doing in the past by himself.

**Senator P.F.C. Ozouf:**

Some would say that I have not been doing my communication very well with some of the difficulties I have had in recent months. Perhaps, I should have communicated more directly and when I re-stood for the position of Minister for Treasury and Resources, I said that I was going to

communicate more. I said that I would spend more time with Members. We would spend, with my Assistant Minister, more time with Members explaining issues, explaining some of the technical issues. We are trying to do that across the States Department. Some of the decisions that we are making, some of the things that we have had to ask States Department to do are very difficult and we want to be better at it and we want to be more transparent and we want to be more open. We need some help to do that and the Communications Unit do a great job in relation to assisting us but I am not the only department in relation to having some external assistance in terms of communication and that is what we are doing.

**2.12.4 Deputy R.G. Le Hérisssier:**

Just to repeat, Deputy, would the Minister not acknowledge that he is in fact the greatest public relation officer for his own department and that this is totally superfluous to employ other people to do the job?

**Senator P.F.C. Ozouf:**

I am grateful for the comment and for the compliment, if there was one, but I have only got so many hours in one day. I put in the work, certainly and I do try and communicate but the Treasury is a big department and we have many different areas which we are responsible for. I take one example, this is to do with the marginal rate of tax, the simple arrangement where the marginal rate gives people effectively lower tax than paying at 20 per cent. Have we got that message across? Have we explained it very well? No, we have not in the past. I encourage Deputy Le Hérisssier to look at the website and the plain English explanation for that and the plain English examples that are now going to every taxpayer in Jersey to make them understand, to allow them to understand that our system is allowing them to pay less tax. I cannot do it all. I am grateful for the compliment. We do need help and communication. Sometimes people say it is 20 per cent substance and 80 per cent communication and perhaps we have not been working hard enough on the communication. Certainly, when I read the editorial of the *J.E.P. (Jersey Evening Post)* sometimes, I realise I have got to do some more communicating and some explanation because they do not get it.

[11:15]

**2.12.5 Deputy J.A. Martin:**

In between all that communication there was a little bit of information, especially that his department is not the only one that is using extra communicators to get the message out there. Could the Minister - and he might not have the figures now - also let us know the Communications Unit, which was the States Communications Unit, who now service only the 10 ministries, what the budget was and the extra budgets that are now being used by the 10 departments because I can assure the Minister, the Scrutiny budget for communications is probably miniscule in comparison and probably just as efficient.

**Senator P.F.C. Ozouf:**

All departments will be using communication on different things. She is an Assistant Minister of the Health Department, on the debate that we are having today, and she knows just how much work went into creating those documents so that we could explain to the public the changes that the department faced. Economic Development will be using all sorts of people to explain their message in relation to what they are doing in terms of inward investment. We need to win hearts and minds, both here and outside of the Island, on various different issues. Communication is not a sin. It is not a crime. It is an expert area. Just as we have accountants and lawyers, you have people that understand how to frame complex things in plain English. It is not a bad thing.

**The Deputy Bailiff:**

The Minister should be quick.

**Senator P.F.C. Ozouf:**

Okay, well maybe it should be quick but there has been a lot about communication and it is not a bad thing and we are being open about it.

**2.12.6 Deputy J.A. Martin:**

In communication creep then, can the Minister tell us the budget extension because he is now telling us there are more people doing it? Yes there are communications, it was the States communications. That part of it I fully understand. Who are these extra people? Are they on contract or are they being employed per communication?

**Senator P.F.C. Ozouf:**

I will try and look at that and but just as the print contract, it is quite difficult sometimes to put your finger on whether or not people are being brought in to teach our own staff how to communicate better. So you cannot just segregate these people out. Sometimes it is about education and that is certainly what we are trying to do in Treasury. Treasury are experts at what they do but Treasury do need to learn how to explain things better, as I think I have just illustrated.

**2.12.7 Deputy J.A.N. Le Fondré of St. Lawrence:**

I will pursue the theme. Just to ask the direct question, for Treasury what is the ball park figure for this tender? If the Minister is not aware of it could he inform us later?

**Senator P.F.C. Ozouf:**

I think in all terms of the communication in areas, like the way that the M.T.F.P. folder was put together, that is all formatting. That is all communication. I think we spent £44,000 on total external communications this year and that is in relation to all the things that we have been doing. I think that is pretty good value for money.

**Deputy J.A.N. Le Fondré:**

Is that the tender?

**Senator P.F.C. Ozouf:**

No, that is what we have spent so far. The tender is being run by Procurement. I have nothing to do with it. It is handled entirely by my own departmental officials for a lot of internal reasons, as the Senator rightly said.

**Deputy J.A.N. Le Fondré:**

What is the budget?

**Senator P.F.C. Ozouf:**

I would need notice of that. I am not aware personally. I have not signed that off. I think it is about £50,000 to £60,000 a year. I will correct that.

**2.12.8 Deputy M. Tadier:**

The Minister suggested that he did not understand the term “spin”, which I think is generally understood to mean a certain bias or interpretation. It would get the public, in this context to do with policy, to have a favourable interpretation of that policy and often involves the expression “to win hearts and minds”. Does the Minister accept that it is perhaps slightly unkind and dismissive to say simply... he used the example of the *J.E.P.* not getting it? Does he agree that it is entirely possible for the *J.E.P.* or anybody else to fully understand what the Minister is saying, and the

policies coming out of Treasury and Resources but simply not to agree with them and to have different opinion? Does the Minister agree that in our democratic society it is perfectly valid for somebody not to agree with the Minister for Treasury and Resources but also to 100 per cent get it at the same time?

**Senator P.F.C. Ozouf:**

Absolutely, that is democracy and the Deputy and I will agree on some things and we will not agree on others. But headlines are certainly “spin”. Sometimes we all have difficulties that the headline gives you the impression of something and you read the article and you say: “Absolutely that is completely correct.” The difficulty with media now is that there is “news”, which is apparently factual information, and there is “comment”. Comment is not news and some of that is spin. So we need to be clear when something says “comment” on the top of the *J.E.P.* It is an opinion. It is not news. We all need to understand the fact that this is an increasingly difficult world in terms of information and what we need to be doing is communicating directly with people. That is what we and the Treasury are trying to do.

**Deputy M. Tadier:**

A supplementary, Sir?

**The Deputy Bailiff:**

No, thank you. We have already spent 13 minutes on this question. We have had quite enough communication on it. Senator Ferguson.

**2.12.9 Senator S.C. Ferguson:**

A very simple communication, Sir. We think that it is going to cost something in the order of £50,000 to £60,000 per year to do things such as weekly business meetings, fortnightly meetings with the Minister and the production of written presentations for all media including TV, radio and other electronic forms of media, such as Twitter. Is this really value for money? Scrutiny does its own media communication.

**Senator P.F.C. Ozouf:**

If the Senator wants another Minister for Treasury and Resources to do things differently then she will have to change this Minister for Treasury and Resources. I am committed to communicating. I want to save money on the buying in of outside media because it is expensive and I think we should be communicating better, directly with people using social media. Yes, Twitter - much twittered and regarded negatively by some - is an important way of communicating and we will use it.

**2.13 Deputy M. Tadier of H.M. Attorney General regarding the use of the Data Protection (Jersey) Law 2005, rather than a civil suit, to request the removal of references to an individual on a website or blog:**

Will the Attorney General or the Solicitor General in this case, explain whether the Data Protection (Jersey) Law 2005 can be used, rather than a civil suit, to request the removal of references to an individual on a website or blog? If so, how this is done?

**Mr. H. Sharp Q.C., H.M. Solicitor General:**

Article 10 of the Data Protection Law provides an individual with a right to issue the Controller of Personal Data that features on a website with a written notice. That notice can require the removal of personal data that is said to cause or is likely to cause substantial damage or stress to that individual or another. The controller of the data, on receipt of notice, has 21 days to decide

whether or not to comply with the request. If there is compliance that of course is the end of the matter. Otherwise, the individual can then commence civil action to seek in terms enforcement of the notice. The Royal Court will then decide the issue between the parties.

**2.13.1 Deputy M. Tadier:**

Will the Solicitor General confirm whether or not personal data necessarily needs to be defamatory when displayed on a blog, or even in any other type of media, for it to be requested to be taken down or can it simply consist of personal information? For example, somebody being named purely factually such as saying that Deputy Tadier is a Deputy in St. Brelade. Could I request for that information to be taken down or would that be ridiculous?

**The Solicitor General:**

There is a threshold test which I did refer to in my first answer but I repeat now. The test is whether the data is causing or is likely to cause substantial damage or substantial stress to that individual. That is the test.

**2.13.2 Deputy T.M. Pitman:**

The Solicitor General referred to an order, I think it was 21 days, when people would have to remove it from a website. Is there anything that limits that in regard to someone waiting 21 days, taking something offensive down and then putting it back up? That certainly used to happen on a website attacking people, certainly States Members. The website is now defunct, I believe. Is there any way to combat that?

**The Solicitor General:**

It seems to me that if a controller of data is served with a notice requiring that controller to take down certain data and after the 21-day period at any point they continue to publish that data, the person who issues the notice is then entitled to go to court to seek enforcement.

**2.13.3 Deputy M.R. Higgins:**

Yes, the Solicitor General has been talking about the right of individuals to take someone to court for ignoring the notice. Could he explain the powers of the Data Protection Commissioner and explain when she would step into the place of individuals in taking someone to court?

**The Solicitor General:**

I would not ordinarily expect the Data Commissioner to step into the shoes of a particular individual. The individual would sue in their own name, so to speak. It is right to say that the Commissioner can in certain cases provide assistance to the person who is suing.

**2.13.4 Deputy M.R. Higgins:**

Can the Solicitor General tell us in what way can he or she give assistance? Is it financial assistance in paying for the court or is it just advice?

**The Solicitor General:**

The Data Commissioner can provide financial assistance to an individual in a case where (a) there is an issue of general public importance that arises and (b) that a matter has a reasonable prospect of success. As I say, in those particular circumstances, the Commissioner can provide financial assistance to an individual.

**2.13.5 Deputy M. Tadier:**

Would the Solicitor General care to comment on the comparison with the U.K. where I understand that certainly historically and up until recently, the Information Officer - the equivalent of our Data

Protection Officer in Jersey - has been very reluctant to get involved with cases to do with defamation, where people have been perhaps defamed and it has been for the courts to step in. Also, will the Solicitor General comment on when this practice, if it has become common or used in Jersey, came into place, and what is the line between an ordinary civil libel case?

**The Solicitor General:**

I think it is helpful to look at what was the purpose of the Data Protection Law introduced by States Members. The purpose of the law, as I see it, is that it was designed to protect individuals from the misuse of their private information. In particular, where that misuse results in substantial stress or harm, the law sees fit to give that individual a remedy. So I do not see it necessarily at all being whether or not something could also fall into a defamation case. In my view, the better view is the issue whether or not the Data Commissioner is discharging his or her duties properly and promoting the function of the law, which is to require data controllers to manage data in a responsible manner.

**2.14 Deputy M.R. Higgins of the Chief Minister regarding the scheme documents supplied to claimants under the Historical Abuse Redress Scheme:**

Can the Chief Minister explain why the Scheme documents supplied to claimants under the Historical Abuse Redress Scheme do not advise that the maximum cost in the case of a failed appeal to the independent Q.C. (*Queen's Counsel*) on the level of assessment by the Scheme lawyers is capped at approximately £1,000? Is he concerned that several claimants would have appealed their awards had that appeal been made known to them?

**Senator I.J. Gorst (The Chief Minister):**

The costs of the review are not capped at £1,000. That is the estimated cost of a review but it depends on the complexity of the case. This is stated in the Scheme Guide. The claimant's right to seek a review and the potential consequences and costs of such a review will be explained to each claimant when an offer is made to them. The claimants who have settled to date have all been legally advised and the lawyers advising are well aware of the review process.

**Deputy M.R. Higgins:**

The Chief Minister has not answered the second part of the question. Is he aware that some of the 9 claimants to date would have appealed had they known this information?

**Senator I.J. Gorst:**

As I said, the claimants to date have been legally advised and their lawyers are and were aware of the appeal process.

**Deputy M.R. Higgins:**

The question was: was the Chief Minister aware of that fact? Were you aware that people were going to appeal or would have appealed had they known about that £1,000 approximate cap? Has the Chief Minister had meetings with some of the victims and heard this?

**Senator I.J. Gorst:**

The Deputy knows that I have in the course of preparing terms of reference for a Committee of Inquiry met with care leavers and interested parties.

[11:30]

I suspect he also knows the contents of the conversations where some have felt that they might like to have made an appeal. I have of course consulted upon that and, as I said, I am informed that all those claimants so far who have received an award have been legally advised and those lawyers



providing the advice were fully aware and are fully aware of the review process and the estimated cost.

**2.14.1 Deputy T.M. Pitman:**

I am aware that the Chief Minister, Deputy Higgins and myself all met with the same people. So, if I can take that question on further, is the Chief Minister aware and is he concerned that some of those people do feel that they have been misled? Quite possibly inadvertently but they do feel that they have been misled. If that is the case, does he not feel that perhaps there is something more that needs to be done to redress that?

**Senator I.J. Gorst:**

This is a difficult area and I am not sure that it is for me to comment on legal advice that might have been received by individual claimants. I will certainly ensure that the Scheme's lawyers continue to make it clear about the review process and therefore that those claimants who are legally advised and not legally advised are fully aware of the appeal process.

**2.14.2 Deputy T.M. Pitman:**

Sir, could I ask a supplementary because I think it might be helpful to the Chief Minister? Is the Chief Minister aware that in the Scheme documents I have seen that were given to victims this was not made at all clear, I have to say, and I am not the only person who has looked at it. Surely that is a concern.

**Senator I.J. Gorst:**

As I said at the last sitting, there are very few claimants who are representing themselves and of course the Scheme lawyers have a responsibility to make sure that everything is explained, I expect in layman's terms, to those claimants. However, as I also said at the last sitting, the Scheme itself was developed in consultation and liaison with lawyers who were representing the majority of claimants and, therefore, I believe that we can be satisfied that they are fully aware of the appeals process and the estimated cost, and have advised their clients in light of that because they were part of developing the Scheme in the first instance.

**2.15 Deputy T.M. Pitman of the H.M. Attorney General regarding directions given to witnesses in relation to naming other parties who allegedly carried out abuse at Haut de la Garenne:**

Were victims told by prosecution lawyers that they could only make statements relating to the couple who ran Haut la Garenne and could not name other parties who they alleged also carried out abuse at the home and if so, why would this have been the case?

**Mr. H. Sharp Q.C., H.M. Solicitor General (The Solicitor General):**

For obvious reasons, I am not going to discuss an individual case in such detail but, as it happens, I can happily answer this question, merely by reference to the basic principles of procedures that apply in all criminal cases. Of course, a criminal crime is concerned with a consideration by a jury or Jurats of particular allegations made against particular defendants. It follows that a witness who attends a criminal trial may only give evidence that is in fact relevant to those particular allegations being considered by the court on that occasion. It is not uncommon for a prosecution witness to be capable of giving evidence in respect of additional matters not relevant to the trial in question. In those circumstances, it is best, and established practice, for the prosecution advocate to warn the witness that their evidence will be focused only on the particular topics relevant to the trial. A purpose of this helpful conversation is that it reduces the risk of a witness inadvertently giving

inadmissible evidence in court that might very well be followed by a defence application to discharge the jury or Jurats and thereby stop the trial.

**2.15.1 Deputy M.R. Higgins:**

Is it common practice for prosecution lawyers to ask witnesses for the prosecution to limit their evidence? For example, if the person was asked the question: “Did you make a complaint?” to sort of limit them so that they do not say who they made the complaint to. So, in other words, the question was being asked: “Did you make a complaint?” and they were advised not to name the person to whom they made the complaint to. Is that normal practice?

**The Solicitor General:**

The only time a prosecution lawyer is likely to lead a witness is when the witness is in fact in the witness box and a prosecution lawyer can sometimes lead a witness so as to prevent the adducing inadmissible evidence.

**2.15.2 Deputy M.R. Higgins:**

Can I just follow that up and say is it usual just before the person goes in the witness box and before the court trial happens?

**The Solicitor General:**

As I had rather hoped I had just explained, a prosecution lawyer may perfectly properly warn a witness not to mention particular pieces of information if it reduces the risk of that witness inadvertently, because they will not know the rules of evidence, adducing something that the jury or Jurats cannot hear about. This is not some unusual occurrence. It happens day in day out in courts around the world and has done for hundreds of years. I have done it myself in many cases.

**2.15.3 Deputy M. Tadier:**

Would it be normal practice for the individual witnesses or complainants to have it explained to them exactly why they should not be naming other parties because it seems to me that if this were done that would certainly help them to accept the restriction, whereas if they were not told they might think something was amiss.

**The Solicitor General:**

Prosecution advocates often tread with care because they do not want witnesses to start worrying about rules of evidence. Ordinarily, a prosecution advocate may well say: “This trial is about X. It is not about Y. Therefore, you must not mention Y.”

**2.15.4 Deputy M.R. Higgins:**

Perhaps the Solicitor General could explain to me because I am still not clear on this aspect - and these are queries that come directly from victims - is it natural or normal practice for someone who is about to give evidence that they must not mention X because the trial is about Z and Y? When, as far as that victim is concerned, X was also part of that abuse and involved, and was at the same location, Haut la Garenne. The person would have wanted to name that person because they were still employed by the States. I just want to understand if that is not limiting their evidence because this is the concern of the victims.

**The Solicitor General:**

It is unfortunate if a witness attends a criminal trial, which is undoubtedly a very stressful experience and does not fully understand the process or perhaps what has happened but, as I have already said, there will be many occasions when a witness is capable of giving evidence in respect of matters that cannot be adduced in the particular trial and it is perfectly proper for the prosecution

counsel to warn the witness. The trouble is, if the prosecution counsel does not warn the witness and the evidence goes in, then all that stress and worry about giving evidence will have to be repeated and experienced again at a second trial when the jury are discharged. That really would be very unfortunate and that is why prosecution counsel warn witnesses in those circumstances.

### **3. Questions to Ministers without notice - The Minister for Transport and Technical Services**

#### **3.1 Deputy M. Tadier:**

With regard to Ann Street car park, the Minister will be aware that now on Saturdays it has been restricted to 4 hours parking in a day rather than a whole day. Has the Minister consulted with season ticket holders who may feel short-changed, especially those who have to work on Saturdays and would expect to be able leave their cars parked in Ann Street car park during the whole day?

#### **Deputy K.C. Lewis (The Minister for Transport and Technical Services):**

I believe the department has and arrangements are being made with them. There is also unlimited parking on Pier Road.

#### **3.2 The Deputy of St. Martin:**

In his written answer to question 11 from Deputy Baudains, the Minister refers to work being done by T.T.S. (Transport and Technical Services) in preparing new road-event legislation. Could I question the Minister on the Road Traffic (Jersey) Law 1956 which is hugely outdated and is going to give us problems now and into the future with things like 3-wheeled electric cars, hybrids, quad bikes and certain classes of work vehicles? Can I ask the Minister when we are likely to see in this Assembly some new legislation to bring Jersey up to speed with the rest of the world?

#### **Deputy K.C. Lewis:**

I think there are several facets to that question. We have the Street Works Law in the pipeline. That should be arriving soon regarding who digs up the road, when and where. As regards to suitability of vehicles, obviously that lies with D.V.S. and vehicles are examined if and when. As the Deputy has pointed out, there are new vehicles coming online now, some are 3-wheeled. Basically, if they are fit for purpose and they conform with lighting requirements... we did have problems a few years ago with the Smart car which did not fit into current legislation. Legislation was modified. We have had the Renault Twizy, which is an electrical small 4-wheeler, which has now been given permission. Other vehicles are coming on and we are reviewing that as and when. There is no blanket review going on but we have had obviously requests for quad bikes, *et cetera*, which are given permits in exceptional circumstances but that is ongoing.

#### **3.3 The Deputy of Grouville:**

The Minister said that £90,000 had been budgeted for a review of the taxi and cab industry. Would it not have been better to direct these monies to the very valued taxi marshals at the Weighbridge on Friday and Saturday evenings now facing the axe because their budget of £25,000 cannot be found, instead of launching a review on private companies and sole traders which cost the tax payer nothing?

#### **Deputy K.C. Lewis:**

I believe the instigation for the whole review came from the J.C.R.A. (Jersey Competition Regulatory Authority). The review is well in progress now but, as they say, you have to careful what you wish for because it is a double-edged sword. I say, the review was long overdue. It has been in people's in-tray for many years. I think it was initiated by my predecessor and I am

determined to see it through but we have to be very careful and make sure that it is an equitable situation.

### **3.3.1 The Deputy of Grouville:**

Concern has been expressed over the potential loss of 91 car parking spaces at Green Street Car Park if the relocation of the new police headquarters goes ahead. Can the Minister tell Members whether he has been involved in any discussions recently to increase the number of parking spaces available in nearby locations to allow for the loss of the 91 spaces?

#### **Deputy K.C. Lewis:**

Yes, indeed. There is not a parking shortage as such but the parking that we do have is not in locations that people require. There will be a loss of spaces at Green Street. Yesterday we had a meeting at the Société for stakeholders with a view to possibly expanding Snow Hill car park. That work is indeed ongoing.

### **3.3.2 The Deputy of Grouville:**

Is the Minister confident that those spaces, if they are replaced at Snow Hill, can be done at the same time while the police station is being built?

#### **Deputy K.C. Lewis:**

At the same time, hopefully before but obviously that depends on planning and design, *et cetera*.

[11:45]

### **3.4 Connétable M.P.S. Le Troquer of St. Martin:**

Does the Minister have concerns regarding the budget available for the Road Safety Strategy for the States of Jersey following the workshop recently attended and how much is the TMS Consultancy review costing?

#### **Deputy K.C. Lewis:**

I think it is satisfactory. I need to get back to the Constable regarding the cost.

### **3.5 Deputy M. Tadier:**

Will the Minister give an update on where he is with the U.K. D.V.L.A. (Driver and Vehicle Licensing Agency) in order for local Romanian drivers to have their driving licences recognised in Jersey and for a mutual exchange to be set up?

#### **Deputy K.C. Lewis:**

I believe the Deputy did contact me a few weeks ago regarding this and the message was put through to D.V.S. I have not heard back as yet. Obviously licensing also involves the various Connétables of the Parishes but I will chase that up.

### **3.5.1 Deputy M. Tadier:**

Would the Minister confirm that it is a very simple Ministerial decision that he can make, to take effect very quickly, to recognise the thousands of Romanians potentially in Jersey who want to be able to drive on our roads and who could do this very safely as they are already accepted in the U.K.?

#### **Deputy K.C. Lewis:**

Not quite as simple as that. There is a reciprocal arrangement with the U.K. and Romania. There is not a reciprocal arrangement with Jersey and Romania. In order to accept it here, the Romanian

authorities would also have to accept Jersey licences, which they do not at present. I will chase it up with D.V.S.

**Deputy M. Tadier:**

Point of order, I suspect the Minister is inadvertently misleading the House because there is no need for a reciprocal agreement at all. The Minister is quite within his capability to make a Ministerial decision which would accept and recognise Romanian driving licences for exchange in Jersey. I think he is being misleading.

**Deputy K.C. Lewis:**

Not necessarily a need but it would be a policy just to have reciprocal agreement and not just a one-way agreement with Romania.

**3.6 The Deputy of St. Ouen:**

Could the Minister inform this Assembly of when he will be bringing a liquid waste strategy to the States?

**Deputy K.C. Lewis:**

I do not have an actual date for the liquid waste strategy at the moment. It is being worked on and as soon as I get that date I would be more than happy to inform the Assembly.

**3.6.1 The Deputy of St. Ouen:**

Is the Minister aware that we were promised a liquid waste strategy some 4 years ago and that it was going to be imminent? Would the Minister please ensure that this Assembly is informed as immediately as possible as to exactly when we are likely to be considering that particular strategy?

**Deputy K.C. Lewis:**

More than happy to do that.

**3.7 Deputy J.A. Hilton:**

The Minister may be aware that a new housing estate was built at the top of St. John's Road and was completed, I believe, in around 2004-05. On completion of that estate it was proposed that the drains would be adopted by the Transport and Technical Services Department. I am aware that a letter has been sent to the previous Minister about the department adopting those drains. Can the Minister tell me whether the department has changed their policy with regard to adopting drains which were originally on a private estate?

**Deputy K.C. Lewis:**

No, the Deputy contacted me some time ago regarding this and the drainage on the estate is not to the same specification as would be required by T.T.S. Plus, it would be a huge liability for T.T.S. to take over and we do not get any money whatsoever for this.

**3.7.1 Deputy J.A. Hilton:**

What I am finding difficult to understand is that the Minister has just told Members that the specification of the drains does not meet the standard of T.T.S. Is he in fact saying that the standard adopted by T.T.S. is different to the standard adopted by Building Control when they signed the drains off?

**Deputy K.C. Lewis:**

I have been informed by my engineers it is not to the same specification. Plus, there would be no benefit whatsoever in T.T.S. taking over a huge liability to the benefit of the builders and residents.

### **3.8 The Connétable of St. John:**

Can the Minister confirm that some £70 million is still required to connect the last 2,330 homes across the Island to main drains and that being the case, how is he going to find it and when will this work be done?

#### **Deputy K.C. Lewis:**

I do not have the figure but I would not argue with the Constable with his determination of £70 million. The answer is we do what we can when we can, with what we have. We have money to maintain. We do not have money to put in major infrastructure at present. If stimulus funds became available, I would be more than happy to oblige.

#### **3.8.1 The Connétable of St. John:**

Can I follow that up, please? Given the Minister's curt reply, the poor public who are taxpayers and paying twice to have their sewerage removed, once by tanker and once with their taxes to have mine and everyone else's removed, when are they really going to be dealt a proper service put in these outlying areas? Not only outlying areas but some parts of St. Helier do not even have main drains.

#### **Deputy K.C. Lewis:**

When the Constable says "curt" I think he means short, not as in a rude reply. As I say, when we get funds available I would be more than happy to oblige. If there are small conurbations it is obviously easier to link up but with outlying houses in far reaching rural areas it is not that easy but we do what we can.

### **3.9 The Deputy of St. Mary:**

Would the Minister indicate as to what progress has been made with regard to pedestrian safety proposals for La Rue Des Buttes and adjoining roads in St. Mary, given the fact that a report highlighted this fact 20 years ago as urgent?

#### **Deputy K.C. Lewis:**

Yes, I attended a meeting with the Deputy and indeed the Constable of St. Mary with some of my officers just a short time ago and this should be ready within the next few weeks, I am informed.

### **3.10 The Deputy of St. Martin:**

Can the Minister advise the Assembly exactly what the requirements are for coming to a decision to resurface any of Jersey's roads?

#### **Deputy K.C. Lewis:**

Like Parishes, T.T.S. has its own roads inspectors and they do it on a priority basis. We have done quite a few recently, obviously a major one going from St. Peter to the airport, which is a major thoroughfare but it is as and when required, as instructed by the road engineers.

### **3.11 Connétable D.W. Mezbourian of St. Lawrence:**

The former Minister lodged and then withdrew a proposition to debate and agree a policy on an Island-wide speed limit. Will the Minister advise whether he has any intention of bringing such a proposal back to the Assembly?

#### **Deputy K.C. Lewis:**

I did not have plans to. The last reduction in speeds which were issued around the Island were at the request of Constables and that was very controversial, some Constables did not agree with that but I am more than happy to have a meeting with the Constables and discuss it further.

### **3.11.1 The Connétable of St. Lawrence:**

I am happy to formally invite the Minister to the Comité des Connétables. I am sure the Chairman will have no problem with that. I wonder whether the Minister would consider including it as part of the review his department is undertaking on road safety strategy.

#### **Deputy K.C. Lewis:**

I would be more than happy to bring that up with the officers for a possible inclusion and many thanks for the invitation.

### **3.12 The Connétable of St. Martin:**

I know there was a written question this morning from Deputy Higgins regarding the waste recycling plant. I also asked questions back in June. Will the Minister tell us when the recycling plant will be finally fit for purpose? We still have concerns. Although, the answer in today's written question says "confidentiality".

#### **Deputy K.C. Lewis:**

I will check it out, I stand to be corrected, all parts and labour are guaranteed for 2 years, I think.

#### **The Bailiff:**

That brings the first question period to an end. We now have the second question period. The Minister for Home Affairs.

## **4. Questions to Ministers without notice - The Minister for Home Affairs**

### **4.1 The Connétable of St. John:**

Will the Minister confirm that all security staff on security duties on both the docks and at the airport pass strict police checks?

#### **Senator B.I. Le Marquand (The Minister for Home Affairs):**

I do not know the answer to that because that would involve employees of departments outside of my own departments. Clearly, I cannot answer for other departments who would have staff there.

#### **4.1.1 The Connétable of St. John:**

If I can rephrase it: all staff who are brought in as contract staff, i.e. whether it be Group 4 or one of these other companies that do security checks on the public at either of those ports.

#### **Senator B.I. Le Marquand:**

I cannot answer that either, for the same reason that the staff who are employed do not fall within my remit. My departmental remit is simply to provide the police checks and other information as and when they are requested. The policy which is followed in relation to that would be, in my view, a policy for the responsible Minister in any particular area.

### **4.2 Deputy R.G. Le Hérisier:**

Can the Minister indicate when the prisoner repatriation programme will start or, if indeed it has started, can he indicate the numbers who have been moved to their home location under the programme?

#### **Senator B.I. Le Marquand:**

It has not started yet. What has been holding it up is the need for a particular convention to be extended so it applies to us. All the preparatory work has been done in relation to that and the

signals we are getting are positive but we are not quite sure at what point it will kick-in. The second thing that has to happen of course is I have to bring an Appointed Day Act to the States. It is my intention to bring the Appointed Day Act as soon as I can. I am awaiting additional information for that but I will then bring that as soon as I can, so that once we become party to the convention the system can start to kick in.

#### **4.3 The Connétable of St. Lawrence:**

I seem to remember reading in the *J.E.P.* that in the lead-up to and during the Olympics the Customs would be strengthening their operations. Will the Minister tell the Assembly what that included, whether it was successful and whether or not it is being continued?

#### **Senator B.I. Le Marquand:**

Although one cannot believe everything one reads in the *J.E.P.*, on this occasion the Connétable is absolutely right. We agreed in Jersey to increase our standards of checks in the same way as was happening in the U.K. for the period of the Olympics. We did so because we did not want a situation to arise in which potentially a terrorist would have come in through Jersey. That was for a limited period. I cannot say precisely what the nature of the additional checks was because that is not logged in my brain but it was only for a limited period.

#### **4.3.1 The Connétable of St. Lawrence:**

Just a supplementary, does the Minister believe that it was successful during the period that the work was undertaken?

#### **Senator B.I. Le Marquand:**

As to my knowledge, no terrorist incidents occurred during the Olympics. We must have been part of an overall successful programme.

#### **4.4 Deputy R.G. Le Hérisier:**

The issue has arisen in the U.K. as to how the investigation is going to occur into the numerous allegations made about Mr. Savile and whether the role of the Metropolitan Police is paramount in these investigations, and other forces feed into them. How is the Jersey force going to operate in relation to these allegations and in relation to the broader inquiry being apparently masterminded over in London?

#### **Senator B.I. Le Marquand:**

I am very grateful for that question because it gives me an opportunity to very strongly rebut the quite ridiculous suggestions that in some way our police force would not be suitable for investigating such matters. That is utterly and completely wrong, completely ridiculous. Frankly, the press coverage of this has not been very helpful because they did not go to Jersey, although I wanted to, it did not give me an opportunity to rebut it on air, which was most regrettable. The position, however, in relation to that is this: the Metropolitan Police having decided to do an overarching investigation had requested assistance from the Jersey Police in relation to the matter.

[12:00]

The Jersey Police have provided such information as they have and they will continue to assist them as and when they require. If a situation arises where potentially there were crimes committed in Jersey by people who are still living then obviously the matter would become a Jersey matter in terms of producing paperwork and so on for the Law Officers to consider, but at the moment the matter is being done under the overarching Metropolitan Police umbrella.

#### **4.5 Deputy M.R. Higgins:**



Does the Minister for Home Affairs have complete confidence in the police today because in the past, on the previous child abuse allegations, officers were under suspicion for destroying evidence or not passing it on? Does he have complete confidence in the police force as it now stands?

**Senator B.I. Le Marquand:**

I have complete confidence in the leadership of the police force which has produced remarkable results in the last 2 years, a remarkable reduction in crime figures. I also have complete confidence that the Historical Abuse Inquiry matters were properly concluded by the local police and that they looked properly into all matters. Indeed, I know that they reopened certain matters towards the end of that for the sake of completion. I have previously made it clear that if there is new evidence in relation to matters which might arise in relation to the Savile matter then obviously investigations can be reopened again.

**4.6 Deputy M. Tadier:**

If Tasers do eventually end up getting introduced into Jersey will the Minister make sure that police officers have training to tell the difference between a blind man's white stick and a deadly samurai sword?

**Senator B.I. Le Marquand:**

I do not think there will be a need for any specific training on that matter. Can I say, the fact that an individual officer on a particular occasion may do something crassly stupid can never be the basis of making decisions as to what is appropriate or not. Clearly, a huge mistake was made and an unnecessary use of force took place. I am sure there will have been an appropriate disciplinary process in that force.

**4.7 The Connétable of St. Martin:**

Taking that forward, can the Minister tell us when he is going to bring forward the proposition regarding the possible deployment of Tasers?

**Senator B.I. Le Marquand:**

I cannot give precise dates because as a result of the very detailed report produced by the Scrutiny Panel a great deal more work had to be done. The police leadership has been deflected off now of course into doing a great deal of work in relation to the proposition of Deputy J.A. Martin of St Helier. Clearly, we do want to go ahead to bringing it into the States as soon as we can but the police themselves have limited resources in terms of officers who can produce that sort of detailed work.

**4.8 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

There has been much speculation in the press and on websites that part of the reason for the reduction in crime is people's unwillingness or reluctance to report crime. Does the Minister have an opinion on that and in any event, what else can be done to help people know that they will have a ready and listening ear by the police if they have been the subject or victims of crime?

**Senator B.I. Le Marquand:**

We have experienced a remarkable drop in the amount of crime in recent years. Last year the figure was 13 per cent. So far this year the figure is 9 per cent. Additional to that, I am very proud to report to this Assembly that during the period that I have been Minister 2008 to 2012 we will have seen a drop of nearly a quarter in terms of crime. I am quite confident that those figures are genuine and are not in relation to the willingness or non-willingness of people to report. Indeed, the system was changed some years ago adversely to the numbers because we had a situation where a person might apparently have been assaulted but would not make a complaint and we now count

those figures in. One of the areas of growth in terms of crime has been reports in terms of domestic violence. I think that is an encouraging sign in this sense - not because there is more domestic violence, which I detest - because I think it shows a greater willingness on the part of people to report.

#### **4.9 Deputy R.G. Le Hérisier:**

In a recent case where a prominent personality was exonerated, and obviously that must be a considerable relief, it was also reported rather strangely at the same time that this person had not been interviewed by the police. I wonder if the Minister could say when serious allegations are made is it not customary that the person who is the subject of these allegations be, almost as a matter of routine, interviewed?

#### **Senator B.I. Le Marquand:**

I have to think carefully as to which incident is being talked about. I assume I have come to the right one. The police will normally interview somebody in order to put allegations and evidence to them. If they were to find that there was no cogent evidence to put to the person there would be no point in interviewing them. I do not of course know what happened in this case because it is an operational matter but that would seem to be a logical approach.

#### **4.10 Deputy M.R. Higgins:**

Could I ask the Minister for Home Affairs if he is concerned that there have been 3 investigations recently where the police have said they were investigating the matter but have spoken to very few of the people concerned. If I mention, for example, the George Burrows case regarding the Standard Chartered Bank, they decided that there was no act of fraud but they did not really interview people or call for papers, from what I can see. We had the allegations made against Senator Le Main. I do not believe that parties to that case were interviewed. Another one involves the Department of the Environment, where officers were accused of perjury and yet the police have never carried out proper investigations and have just washed their hands. Is he concerned that the police are not doing their job properly? Surely, if allegations are made they should be investigated and witnesses interviewed.

#### **Senator B.I. Le Marquand:**

The position in relation to this matter is of course this is clearly within the operational freedom principle of the States of Jersey Police. Now, the view I take in relation to such matters - and this is the correct view constitutionally - is that it is for the police to determine to what extent they may investigate, and the manner in which they investigate a particular matter. Having said that, I also take the view that because they have a statutory duty to investigate, it is sometimes appropriate for me to intervene, purely to check that there has been an appropriate process. That process will sometimes involve a preliminary decision as to whether or not there is sufficient matter to continue to a full investigation. I will not intervene in that. In the particular cases, if we take the Burrows case, for example, I am aware from conversations I have had with senior police officers that indeed there was a considerable amount of time spent looking at that. Indeed, I think I have answered questions previously on that matter and indicated it was reviewed twice. So, it was looked at by 3 separate officers. As I say, it is a very fine line in relation to that because if the police come to the conclusion that there is insufficient matter there to launch a full scale investigation that in itself is an appropriate process, but where they have decided to investigate fully that is a matter for them. It is an operational matter. I will not intervene.

#### **4.11 Senator S.C. Ferguson:**

Has there been a change in the categorisation of offences and does this have any bearing on the fact that crime is alleged to have reduced?

**Senator B.I. Le Marquand:**

There have been changes during the period but the main change that I recall is the one that I mentioned, which is that now we include in certain categories even where there is no complaint. I do not think apart from that there has been anything material in terms of categorisation. We do now follow the same principles as they do in the U.K. in terms of the methodology.

**The Bailiff:**

That brings the time for questions without notice to an end.

**Deputy E.J. Noel:**

Deputy Young was unavailable to make it to the Chamber to get an answer to his question from the Minister for Planning and Environment. I wonder if the Minister would be obliging and circulate his answer to Members?

**Deputy R.C. Duhamel:**

That is the usual protocol.

**The Bailiff:**

I think that means yes.

**Senator I.J. Gorst:**

In an answer to Deputy Tadier earlier this morning, I might have led Members to believe that the second briefing with regard to the terms of reference for the Committee of Inquiry was taking place on Thursday. I do believe I followed this up and corrected it later on as being Friday but I just wanted to confirm to Members it is Friday and not Thursday.

**The Connétable of St. Peter:**

Earlier on, Deputy Le Hérissier did ask a question about the operating theatres being used exclusively on a Friday for private patients. Can I just confirm it is a normal operating day and it is not set aside for patient use on a Friday? Thank you.

**The Bailiff:**

Very well, there is nothing under J or K so we come to Public Business.

**PUBLIC BUSINESS**

**Senator I.J. Gorst:**

I am mindful of the time and it is quite a difficult judgment. There are 2 what I expect may be shorter items on the Order Paper for today, P.84 and P.87. So I am minded to ask if we could take those before lunch so that the Minister for Health and Social Services can start afresh on the White Paper after lunch. Having said that of course that might mean we need to break at around half past or before and then come back a bit early, so I wonder what Members' opinion might be of that approach.

**The Bailiff:**

Minister, do you have any objection to that?

**The Deputy of Trinity:**

None at all, Sir.

**5. Draft Health Care Registration (No. 4) (Jersey) Regulations 201- (P.84/2012)**

### **The Bailiff:**

Do Members agree to proceed in that way? It seems sensible. Very well, we will take first P.84 the Draft Health Care Registration (No. 4) (Jersey) Regulations 201-. I ask the Greffier to read the citation of the Draft.

### **The Deputy Greffier of the States:**

Draft Health Care Registration (No. 4) (Jersey) Regulations. The States, in pursuance of Article 17 of the Health Care Registration (Jersey) Law 1995, have made the following Regulations.

#### **5.1 The Deputy of Trinity (The Minister for Health and Social Services):**

Before Members is a draft amendment to the Health Care Registration (No. 4) (Jersey) Regulations. In July 2011 the primary legislation Medicines (Amendment No. 3) (Jersey) 2011 was approved by this Assembly which enabled the Minister for Health and Social Services to specify a wider range of practitioners that may prescribe medicine products. This amendment today builds on the initial legislation and seeks to add 3 registered professionals to the schedule. The 3 new registered professions now ready to be added are: (1) nurse prescribing practitioners, (2) midwife prescribing practitioners and (3) specialist community public health nurse prescribing practitioners. This will enable registered nurses, registered midwives and specialist community public health nurses to proceed before legally qualified and locally registered independent and supplementary prescribing practitioners and will subsequently be individually approved by the Minister for Health and Social Services. A person registered in one of these professions will be deemed, alongside doctors, dentists and veterinary surgeons, an appropriate practitioner for the purposes of Medicines (Jersey) Law 1995. Such a practitioner is by virtue of Article 57 of that law able to prescribe or administer prescription only medicines. The supply and administration of those medicines must be in conformity with the conditions prescribed under that article. In anticipation of the addition of the first 3 professional groups, and indeed those other professions deemed appropriate into the future, 2 other supporting orders will be considered. These are (1) the Healthcare (Registration) (Prescribed Qualifications) (Amendment No. 5) (Jersey) Order 2001. This order specifies the qualifications that practitioners need in order to become locally registered, including an entry of the United Kingdom Nursing and Midwifery Council's register, a notation on the entry indicating that the practitioner has successfully completed an approved, nationally accredited education programme, is competent to prescribe prescription only medicines and has a reasonable degree of experience. This includes evidence of attainment and continuing professional development in the prescribing of those medicines. (2) Medicine (Prescription Only) (Amendment) (Jersey) Order. This Order defines the 2 key components of prescribing practice being of an independent subscriber and a supplementary prescriber.

[12:15]

The Order acknowledges the 3 new appropriate practitioners and sets out specific conditions limiting classes of medicines or procedure for administration where identified. Within the concept of supplementary prescribing, the use of a clinical management plan is identified. There is now a sustainable body of evidence which demonstrates that non-medical prescribers provide not only safe care, which is paramount, but their practice provides highly cost effective and quality outcomes to their clients group. It is envisaged that this will not only enhance patient care but will utilise more effectively the current knowledge and skills of our most experienced specialist staff. In addition, the law amendment provides an improved governance framework. This is enhanced by the strict professional standards and regulation pertaining to prescribing practice. The professional regulation, the selection, education and continuing practice of all non-medical prescribers are some of the most rigorous and monitored of all areas of practice. Practitioners entering to become non-medical prescribers have to demonstrate a proven track record of practice, experience and

continued education at under and postgraduate level. The selection process for undertaking a programme of study is similarly rigorous and requires specific and regulated criteria which must be fulfilled before a programme of study is commenced. The education programme follows strict national and international standards and is rigorously regulated by the professional body concerned. So, for example, for nurses and midwives, this would be the Nursing and Midwifery Council and for pharmacists, the General Pharmaceutical Council. Assessment on the programme consists of theoretical, numerical, pharmacology and structured clinical examination where assessment and diagnostic skills are assessed. While undertaking the course, practice is similarly checked and formally assessed by speciality-specific senior medical staff who must be assured that practitioners reach the highest standards. Once practitioners have successfully completed and qualified as non-medical prescribers, their progress and continued professional development is similarly assessed and monitored. It is reviewed annually to ensure that competency and standards are maintained and that safety is paramount. Practitioners will be expected to demonstrate that their practice is of the highest level and their right to prescribe will require a formal process to evaluate this in order to qualify each year. Most specialist practitioners we seek to recruit here in Jersey view non-medical prescribing as an important and rewarding part of their role. The amendment to this current legislation will clearly therefore make working in Jersey a much more attractive option. Where we are currently competing nationally and internationally to attract the right people with the right skill-sets, we know that the job market for these highly qualified staff is becoming increasingly more competitive. Recent research has indicated that the added value of non-medical prescribing of existing local practitioners is that it will enhance job satisfaction, improve the patient experience and consequently, positively impact on staff retention rates. I make the amendment.

**The Bailiff:**

Seconded. [Seconded] The principles are open for debate.

**5.1.1 The Connétable of St. Lawrence:**

I am sure Members will welcome these amendments because anything that is going to help us to recruit and retrain and retain staff in our Health and Social Services Department must be welcome. The only question I have for the Minister is about the prescription-only medicines and I would like to know how often they are reviewed and updated and how they are notified to these practitioners. How are they made aware of what these prescription-only medicines are?

**5.1.2 Deputy R.G. Le Hérissier:**

Yes, this is a very positive development. I want to see if the Minister could tell the Assembly, would such practitioners be able to do renewal of prescriptions? For example, if you ran out of a prescription and you could not get to your G.P. (General Practitioner), would these practitioners be able to renew the prescription? Secondly, will they be able to operate away from areas like G.P. practices almost in a stand-alone fashion?

**5.1.3 The Deputy of St. Ouen:**

On page 4 of the report, item 8, it says that the draft Regulations and subsequent proposed Orders ensure that quality assurance is regulated and that U.K. prescribing practitioners holding approved prescribing qualifications will also have to satisfy the Minister that they have access to, updated and understood the specific context of non-medical prescribing including governance frameworks, which are specific just to prescribing practice within the States of Jersey. Perhaps when the Minister sums up, she could explain exactly how that is going to take place and that indeed, it will cover all those prescribing practices.

**5.1.4 Senator F. du H. Le Gresley:**

I rise simply to assist my colleague, the Minister for Health and Social Services, with reference to the question from the Constable of St. Lawrence because the matter to do with the prescribed list falls under my responsibility. I am advised by a committee - I think I have this right - called the Pharmaceutical Benefits Advisory Committee who sit on regular occasions and they advise me of any additions or removal from the prescribed list which I then, if I agree, sign-off by Ministerial Order and then my department notifies all the relevant practitioners of the changes on the list. That is done on a regular basis.

**5.1.5 Senator P.F. Routier:**

I just really wanted to pick up on the improvement of patient experience. From personal knowledge, I am aware that the ability for nurses to be able to prescribe and not having to wait for a doctor to be available to sign a prescription while you are in hospital would be a really valuable step forward for patients who are actually in the hospital. I am aware that I was in hospital for some time a few years ago and there was a day went by where we were waiting to find a doctor to sign a prescription and the nurses were saying: “Well, if only we could sign the prescription, you could have your drug a little bit earlier.” I think this is a really good step forward for patients.

**The Bailiff:**

Does any Member wish to speak? I call upon the Minister to reply.

**5.1.6 The Deputy of Trinity:**

I thank all those who have spoken and I think, Constable of St. Lawrence, Senator Le Gresley has answered your question but also to add, and I think it fits into what Deputy Le Hérissier said too, that it is the medicines that the nurses will be able to prescribe is pertaining to each speciality. It is not across the board. It does not mean to say if you are in learning disabilities, you can prescribe for someone who was end of life. That list is as Senator Le Gresley said. Regarding G.P.s and practice nurses, if it is appropriate, they can renew prescriptions but I must say in the first cohort of nurses who have identified that they want to go ahead and do the speciality training, there are 14, at this moment, none are in the G.P. areas, as yet. The reason being is that, as I have mentioned, they need to come up to a very high level and they, as yet, have not quite attained that but the Education Department within Health and Social Services is working very closely with them to improve their performance development to make sure that they can, if they wish to. Senator Routier’s comment about a nurse prescribing: yes, as I said, it will help the patient at the end of the day. That is the most important thing; that they get the right care at the right time. Just as a footnote, it has already, with this view that coming on, if the States approve it, helped our retention of nurses because if a nurse has been doing this prescribing in the U.K. and comes to Jersey, she cannot. Therefore, that nurse will lose their skills and that cannot be a good thing. I maintain the Regulations. I call for the appel.

**The Bailiff:**

The appel is called for. I invite Members to return to their seats to vote on whether to adopt the principles of the Health Care Registration (No. 4) (Jersey) Regulations and I ask the Greffier to open the voting.

<b>POUR: 33</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator P.M. Bailhache		
Connétable of Trinity		

Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

Deputy of St. Peter, does your panel wish to scrutinise these Regulations?

**Deputy K.L. Moore of St. Peter:**

No, thank you, Sir.

**The Bailiff:**

Very well. Minister, are you going to propose the Regulations *en bloc*?

**The Deputy of Trinity:**

I think so, Sir. Yes please.

**The Bailiff:**

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

**The Deputy of Trinity:**

Yes, Sir.

**The Bailiff:**

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

## **6. Public Employees Contributory Retirement Scheme: Committee of Management – appointment of members (P.87/2012)**

### **The Bailiff:**

We now come to P.87 - Public Employees Contributory Retirement Scheme: Committee of Management - appointment of members - lodged by the Chief Minister, and I ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to approve, in accordance with Regulation 3(2) of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989, the appointment of the Committee of Management for a period of 3 years commencing 1st January 2013 as follows: Employer Representatives: Mr. Scot Laing, Mr. Stuart Lusby, Mr. Terence Augustine Le Sueur, O.B.E., Mr. John Frederick Mills, C.B.E., Mr. Sachin Meeku Patidar, Mr. Steven Warner. Employee Representatives: Mr. Gary Birbeck, Mr. John Fosse, Mr. Mark Johnson, Mr. Thomas Querns, Mr. Mark Richardson, Ms. Barbara Ward.

### **6.1 Senator I.J. Gorst (The Chief Minister):**

As the Greffier has just read out, this is an appointment to the Committee of Management of the Public Employees Contributory Retirement Scheme. Members will see the extensive C.V.s (curriculum vitae) detailed in the proposition. The Chief Minister is responsible for bringing forward 3 names, the Minister for Treasury and Resources for 3, and the Employee Representatives are brought forward from the Joint Negotiating Group. I should, for the avoidance of any doubt, record that one of the employee representatives, Mr. Richardson, is the brother of a close personal friend but as it is clear from the proposition, they are brought forward from the Joint Negotiating Group. These Members work hard on behalf of Members of the P.E.C.R.S. (Public Employees Contributory Retirement Scheme) and I am grateful to them and I hope that Members will approve their appointment.

### **The Bailiff:**

Seconded. **[Seconded]** Does any Member wish to speak? Would all Members in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

### **Senator P.F. Routier:**

I was going to propose an adjournment.

### **The Bailiff:**

Just before we come to that, I give notice to Members that there has been lodged the Draft Alternative Investment Funds (Jersey) Regulations P.109, lodged by the Minister for Economic Development; and also the Draft Financial Services (Amendment of Law No. 4) (Jersey) Regulations P.110, also lodged by the Minister for Economic Development; and R.129 - Land Transactions under Standing Order 168(3) - in relation to Colleen's Café, Grève de Lecq, St. Ouen and the adjoining boundary/rock face to the south-west has been presented by the Minister for Treasury and Resources.

[12:30]

## **LUNCHEON ADJOURNMENT PROPOSED**

### **Senator P.F. Routier:**



I was wondering whether Members would, as we are breaking early, be inclined to come back at 2.00 p.m. as opposed to 2.15 p.m.? I propose that, Sir.

**The Bailiff:**

That seems to be the consensus. The adjournment is proposed and the States will stand adjourned until 2.00 p.m. this afternoon, and not 2.15 p.m.

**LUNCHEON ADJOURNMENT**

[14:00]

**7. Health and Social Services: A New Way Forward (P.82/2012)**

**The Deputy Bailiff:**

Before we start on the afternoon's business, I am very pleased to welcome His Excellency for this important debate. **[Approbation]** We now to come to P.82/2012 - Health and Social Services: A New Way Forward - lodged by the Council of Ministers, 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) to approve the redesign of health and social care services in Jersey by 2021 as outlined in Sections 4 and 5 of the Report of the Council of Ministers dated 11th September 2012; (b) to request the Council of Ministers to co-ordinate the necessary steps by all relevant Ministers to bring forward for approval - (i) proposals for the priorities for investment in hospital services and detailed plans for a new hospital (either on a new site or a rebuilt and refurbished hospital on the current site), by the end of 2014; (ii) proposals to develop a new model of Primary Care (including General Medical Practitioners, Dentists, high street Optometrists and Pharmacists), by the end of 2014; (iii) proposals for a sustainable funding mechanism for health and social care, by the end of 2014.

**Senator I.J. Gorst (The Chief Minister):**

It has given me great pleasure to ask the Minister for Health and Social Services to act as rapporteur this afternoon for this proposition. I am confident, Sir, that this is going to be a landmark day for our community.

**7.1 The Deputy of Trinity (The Minister for Health and Social Services - rapporteur):**

This proposition before us today is probably one of the most significant that we, as an Assembly, will debate. It sets out the case for a fundamental change in the way that we care for the health and well-being of all Islanders. It will have implications for everybody in Jersey today, and into the future: our children, our grandchildren and our great-grandchildren. So why is there a need to change the way we deliver care as described in this proposition? It is because we have reached a point where there is no option but to support a case for change. Our population is ageing, a global trend, which is also reality for our Island. The rate of chronic disease and the burden that places on our society is increasing. International research and our own patient numbers tell us that. Demand for our services is growing and will continue to do so in response to demographic changes. We are close to running out of hospital beds and theatre capacity. Our buildings and our facilities across my department are reaching the ends of their useful life. They fail to meet modern standards. You just have to take a walk around the hospital, or around Overdale, to see that for yourself. Our costs are spiralling as patient numbers increase, drug and medical equipment costs increase, and demand for specialist treatment and support in the U.K. increases too, as shown by the ever-mounting pressures placed on our annual budgets. My front line staff are under a level of pressure that is not

sustainable in the future and I would like to take this opportunity to thank them on behalf of all Members for their commitment and care they give to Islanders. **[Approbation]** The question is simple: what does that change look like? Over the last 2 years, my department has asked Islanders, health professionals, third sector organisations - which now like to be referred to as a voluntary and community sector - this question. While there was some difference of opinion at the margins, the response has been the same: we need a new model of care. As you know, we have undertaken detailed analysis and consultation to establish what that model should be. KPMG spent 6 months reviewing our data and our services. We produced a Green Paper setting out 3 different scenarios based on KPMG's work. We have listened to the responses before going out again with the White Paper and then, based on what we were told, we have set before you this proposition. This has been a culmination of many years work of listening to people, our staff, our clinicians, the voluntary and community sector organisations, Parishes, focus groups to name but a few. The response to this consultation was that Islanders valued their health and social services, that the model did need to change and doing nothing was not an option. A wide range of services should be provided on-Island where possible. People also said services should be free or affordable and available to all residents, that they wished to be cared for in their own homes and communities for as long as possible, that having integrated care was important, that Jersey's voluntary and community sector should be supported to take a larger role, and co-payments for G.P.s need to be considered. In short, they said they wanted to have the right care at the right time by the right staff. It is the model of care recommended by KPMG that through the Green Paper process became known as Scenario 3. Scenario 3 receives significant support from the public and professionals alike: 86 per cent of the Green Paper respondents supported Scenario 3. It is the best way forward and the evidence shows us that. Also, it is Scenario 3 that resonates with the model outlined only last month by the Kings Fund which is a leading U.K. and global health think tank. We know that during the consultation phase, some legitimate issues were raised in relation to Scenario 3. We have listened to those and responded where appropriate, as you will see from the report and proposition. We have made it very clear that decisions about the types of services to be delivered are set out in the outline business cases, such as early intervention for children of families, will be subject to the development of a full business case and a transparent commissioning process. We have placed a greater priority on our acute care plans and we have ensured that carers feature strongly in our plans with their own strategy being developed over the next coming weeks. There are, however, still questions to be asked and answered about the details the services will look like into the future. How will primary care look, what will the hospital look like and how will all this be funded in the future? The need to answer these questions is clearly set out in the proposition but that is the next stage of the process as we develop full business cases, a sustainable funding proposal and detailed plans for a new hospital. In part (b)(1) of the proposition, the Council of Ministers asked Members to co-ordinate investment plans and detail plans for a new hospital and I caveat by that "new" as no decision has been made where that will be by the end of 2014. Let me be under no illusion, to sit with a loved one during their last hours of life is one of the hardest of all human experiences. To have to do so in a 6-bedded bay, surrounded by the noise, chat and life of others, is simply not acceptable. Nor is it acceptable to come into hospital and acquire an infection because despite the best efforts of staff around you, your physical surroundings fail to meet modern standards. Be in no doubt of the need for a new hospital. Atkins International Limited, a highly experienced hospital planning consultancy, are working alongside a local firm of quantity surveyors and are undertaking a pre-feasibility spatial assessment. One of their findings is that due to significant demographic pressure, the number of beds required will need to rise from a total of 245 beds to 418 by 2040, if community services are not put into place. If this proposition is approved, then the number of beds required is significantly reduced, although it will still need to rise to 304 beds by 2040. Part (b)(ii) focuses on a new model in primary care and this includes G.P.s, high street opticians, pharmacists and dentists. The Council of Ministers recognises that getting primary

care right and the funding right is very important. We must engage with all of the primary care sector, but that will take time. We have been working with G.P.s for over 5 years now but have yet still to have real engagement with the other sectors, but we aim to achieve proposals by 2014 in time for the next Medium-Term Financial Plan. Part (b)(iii) asks Members to request the Council of Ministers to bring forward a sustainable funding mechanism for Health and Social Services by the end of 2014. This will be led by the Minister for Treasury and Resources and his department. The implementation of the new services requires significant investment, both on a one-off basis and also long-term. As Members are aware, there is a request in this year's Medium-Term Financial Plan for increased funding for 2013 to 2015. In the following periods, 2016 to 2021, further business cases with detailed planning and costs will be developed as part of the future States Medium-Term Financial Plan. At this point, I would like to thank Scrutiny for their review of the report and proposition. Their involvement has been wide-ranging and their approach has been very thorough. I agree with many of their 21 recommendations and they will have a key role in helping ensure that the design of future Health and Social Care in Jersey is right for all Islanders and I was happy to read in the media coverage that the Deputy of St. Peter who is the chair of a Scrutiny Panel supports the broad direction of this proposition.

[14:15]

Detailed planning will still continue, as will working with our voluntary and community sector partners. I would like to take this opportunity to thank all the voluntary and community sector partners and all the volunteers for the care that they give to our Islanders. Without them this Island would indeed be a poorer place. I look forward to continuing and enhancing our relationship as all go forward together to provide better services for Islanders. It is an absolute given that our commissioning process must be robust, as how can we ensure efficiency and effectiveness if they are not. But at the same time they must be proportionate and they must not create a barrier to the voluntary and community organisations. We know these organisations have the ability to provide excellent care and some may do so for less money but the importance of the voluntary and community sector goes way beyond service delivery. It is about the sector's unique ability to create change and reach out to individuals in a way that the States cannot and this very much includes the Parishes. As we move forward with implementing our plans we will also consider whether establishment of a non-executive board will help complement our existing robust governance procedures. With this proposition Members have a unique opportunity to ensure that all Islanders receive the health and social care that meets their needs and that it is accessible, affordable and above all safe. As Members are aware, standing still is not an option for this Island. We have done that for too long. This is a once-in-a-lifetime opportunity and this is one of the most important decisions that we will make as we set out on the journey to ensure that we have the right care in the right place at the right time for all Islanders. I shall finish on a personal note. From a very young child I always wanted a career in nursing and I was privileged to be able to achieve that. I was then and continue to be passionate for the most vulnerable in our society. From the care of a premature baby through to being with someone as they are dying, that is why I am standing here before Members today. The future of our Island's health and well-being is in Members' hands today and I urge Members to grasp this opportunity. Thank you and I make the proposition. **[Approval]**

**The Deputy Bailiff:**

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

**7.2 Health and Social Services: A New Way Forward (P.82/2012) - amendment (P.82/2012 Amd.)**

**The Deputy Bailiff:**

Now, there are several amendments lodged by the Health, Social Security and Housing Scrutiny Panel. I understand the proposal is to take them all at the same time, is that correct?

**The Deputy of St. Peter:**

Yes, we would like to do that.

**The Deputy Bailiff:**

Two of them are not opposed. I will ask the Greffier to read them out.

**The Greffier of the States:**

(1) Page 2 paragraph (b) in sub-paragraph (i) after the words “on the current site” insert the words “including full details of all manpower and resource implications necessary to implement the proposals.” (2) Page 2 paragraph (b) in sub-paragraph (ii) for the words “by the end of 2014” substitute the words “by the end of 2013” and make consequential changes to the dates in section 561 of the report. (3) Page 2 paragraph (b) in sub-paragraph (iii) for the words “by the end of 2014” substitute the words “before the end of September 2014.”

**The Deputy Bailiff:**

I call on the Chairman of the Health, Social Security and Housing Scrutiny Panel to propose the amendments.

**7.2.1 The Deputy of St. Peter (Chairman, Health, Social Security and Housing Scrutiny Panel):**

The panel would like to address our 3 amendments simultaneously although of course the Assembly will vote on each of them separately. We are grateful to the Council of Ministers who have responded and shown their support for 2 of the 3, therefore, I shall be brief. The intention of our first amendment is to ensure that the manpower and resource implications of building a new hospital are made available to the Assembly when it debates the conclusions of the feasibility study. Members will have received a pre-feasibility report regarding the potential build of the hospital. At this stage, as the Minister has just said, it is not clear whether the Council of Ministers favour a build on the existing site, a brownfield or a greenfield site. What we do know is that the costs given in the pre-feasibility report are for the highest of build standards but not taking into account the land and related costs. If it is decided that the Island can afford such a model, there will be many factors to take into account and the decision-making process would be assisted by having manpower and resource implications to hand. For example, if asked to agree a hospital with single bed units throughout there will be a need to recruit more nurses and auxiliaries to properly care for those patients. Certain design elements may require a more costly cleaning programme than others. To properly inform the debate we would like the Assembly to have such information and the Council of Ministers has acknowledged that. Let us now deal with our second amendment. In this section we are asking for plans to develop a new model of primary care to be brought to the Assembly by the end of next year rather than the end of 2014 as proposed. Unfortunately, the Council of Ministers have found themselves unable to support this timeframe. If Members turn to the response provided to our amendments they will see that a work plan has been devised which lays out a number of target dates for completion of the different phases of this work. We are encouraged by this but we would ask Members to give our amendment their full consideration. We do acknowledge that this is a significant task and there are many groups to work with to achieve consensus on it. Again, if Members will refer to the work plan, this was in the main to be completed by the end of 2013. For most members of the public their main point of contact regarding health issues is part of the primary care team, whether it be a G.P., dentist, optician or pharmacist. That, we feel, is why the work should be done as quickly as possible. If you need to be reminded look at the responses to the primary health care survey conducted by the Consumer

Council this year. The majority of over 4,000 responses considered in the preliminary findings suggest that there are concerns about the cost of accessing some of these services. These responses do give some clues as to the mood of the public which can shape the progress of the work; 52 per cent of the respondents are in favour of continuing with the current system of funding health care. As part of our work the panel looked at various funding structures in other nations and regions with similar issues to ourselves. We found that the majority operate on a system of co-payments. Therefore, while there is room to work on the affordability of our health care systems, we suggest that a move towards the U.K. free-on-delivery model would not be advisable. Later, we will be asked to agree Regulations ... in fact, today we have agreed Regulations which will enable a greater number of allied health professionals to prescribe medicines. These changes can be seen as a first step along the road towards community care and reforming the provision of primary health care. Why not complete this process? There is a level of uncertainty regarding the way these various roles will fit into the new way forward for our Island's health care. We take the view that while we are making these first steps on the path of change we should expedite the process to minimise the concern that is being felt by a number of professional people regarding their livelihoods. We hope that Members will agree and vote to bring forward this work to be completed by the end of 2013. Our third amendment is quite simple and that is to ensure that the important issue of the ongoing funding mechanism for these plans should be taken by this Assembly before the next elections. The burden of such a decision on a new Assembly would be too great and we feel that those who have put the Island on this path should take the responsibility for making sure it is affordable for future governments to implement. Thank you.

**The Deputy Bailiff:**

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendments?

**7.2.2 Deputy J.M. Maçon:**

First of all I would like to begin by congratulating the Scrutiny Panel for taking the time and doing their work thoroughly and producing something for this Assembly. **[Approbation]** While I am supportive of their proposals there is one point that I would like to make which is that perhaps the Minister for Health and Social Services alongside with the Minister for Treasury and Resources show some foresight in that, if they are to decide that a new hospital build is the most appropriate thing, perhaps they should seek States Assembly approval on a certain site before ploughing ahead so we avoid the whole police headquarters saga which we now find ourselves in. I feel that might be a more acceptable way to go forward and I hope that the Minister for Health and Social Services and the Minister for Treasury and Resources will give us that undertaking. Thank you.

**7.2.3 Senator P.F.C. Ozouf:**

I wish to echo the words of Deputy Maçon on the panel's work. They have done an enormous amount of work. They have had to digest a very significant project and of course this is not the only project that they have been looking into. They have been looking at housing transformation as well. Certainly from the sub-group of the Council of Ministers we have worried about what the panel have to say, and therefore that is a good thing because this is Scrutiny at its best. The Ministerial sub-group and the Health Department and all the rest of the group involved in bringing forward these proposals have had to work hard to convince the panel. I think that certainly in respect of part 1 and part 3 of their amendments the panel has come forward with some perfectly reasonable amendments and that is why the Council of Ministers are agreeing them. There is a massive amount of work to be done on the new hospital and the panel is quite right that the proposal should have all of the manpower and resource implications before it, and that should come forward as soon as possible. We had a debate in this Assembly a few weeks ago about the incorporation of the ports and we were dealing with this issue about whether or not a proposition

was an in principle proposition or not, or whether or not it was a first step. Well, this is not an in principle proposition to build a new hospital on a site. It is a signal that there is an enormous amount of work that has got to be done. I am worried about the costs and there are going to have to be some constructive tension discussions between Treasury and Health in relation to the final capital arrangements. Deputy Maçon is quite correct; we need to go through a proper process in relation to the identification of that site and then decisions need to be taken along the way. Of course ultimately it is a matter for the Planning Applications Panel or the Minister for Planning and Environment, if he chooses to call it in, to make final planning determinations. That is going to be a bold planning decision because the size of the hospital that we are talking about is - I think somebody has described it as twice the size of the incinerator. So we are dealing with a very, very substantial amount of construction. The Assistant Minister who is responsible for Property Holdings, and indeed the Council of Ministers, signed-off a report which Members have seen. I know that some Members are a bit concerned about that report, about what it says and what it does not say. I understand that but a clear timetable has now been set out in relation to identification of sites. There is going to have to be some consultation on that and we certainly are going to be putting in place all the work to ensure that there is a proper understanding of the resource implications. I signal to Members now that the difficulty that we are going to have to face with dealing with that sort of bill is that we are going to have to potentially consider some sort of funding and financing options for that hospital, certainly if we want to achieve it earlier. It may well be able to be paid-off by selling-off some existing hospital sites, *et cetera*, but there is going to have to be some funding. All those issues are going to have to be matters that this Assembly are going to have to take decisions on. So, I am absolutely happy to confirm that this is a big project, that there needs to be more work to be done and to accept the amendment that the panel has put forward. In relation to the third matter, that relates of course to the funding generally. I think that is absolutely fair enough that it is this Assembly that takes responsibility for understanding and accepting and perhaps setting the way forward for funding going forward. It is a matter of, I suppose, some good news for this Assembly that phase one of the health reform programme has been funded without additional income needing to be generated. That is because of the difficult decisions that the Assembly has taken previously. The bold increase that is signalled in this White Paper that is inscribed in the M.T.F.P. is of course being funded out of existing revenues and we stand by our revenue projections as we have just been talking helpfully with Corporate Services but we think we can fund it through the next 3 years. There are some bold additional funding requests that are going to be required in phase 2 and consideration is going to have to be needed to fund those services. We are going to have to look at the Health Insurance Fund; we are going to have to look at the way that fees are charged; we are going to have to look at further savings in relation to some areas of health care and we are going to have to look at further savings perhaps elsewhere in the longer term but this should be done as soon as possible. It is the Treasury unfortunately that is going to have to be dealing with this third matter and we are going to certainly be prepared to set this out earlier on.

[14:30]

All this liberation that is going to be given us by not having an Annual Business Plan, perhaps we can put some of that time that we are going to otherwise spend on a business plan to these endeavours. So that is clear and accepted. I think the panel has got 2 out of 3 so far and that is good. I think also other Ministers are going to comment in relation to this other important issue of their second amendment that they want to see changes brought forward earlier in relation to primary care. Other Ministers will explain just how much of a big project this is, and perhaps Ministers on the Ministerial Oversight Group have not been quite clear enough in setting out a timetable of the different elements of the reform of primary care. It is not going to be like watching a new Pope being elected and just waiting for the white smoke to come out at the end of 2014. A

lot of work has got to happen in relation to effectively completely changing the relationship between primary health care, between doctors and the centre, and the way that those new arrangements are going to be put in place. If we are serious about keeping people out of hospital we are going to have to strengthen primary health care. Primary health care can do more in terms of preventative medicine. It can do so much more in many areas which are going to improve the health care of the Island but of course it is more than just simply doctors, there are others: dentists, optometrists, pharmacists, and all the rest of it. I am not going to steal the Minister for Social Security's thunder because he is the one, with the Minister for Health and Social Services, that has more to say in relation to this second paragraph. Suffice it to say that I would urge Members to read the comments of the Council of Ministers, part (b). I do not think that we can accept: we should not be promising to do something that we cannot deliver. What we can do is we can be more clear on a timetable and some road marks and a clear set of targets that have got to be delivered over a period of time. I would say to the panel, listen to perhaps what the Minister for Health and Social Security and the Minister for Social Security's challenges and problems are in reforming in this area, and perhaps they might consider that this timetable goes some way to explaining why simply everything cannot be done by the end of 2013. It just simply cannot be done in terms of all the legislative arrangements. I think the panel has helped enormously. They have managed to get out of the Council of Ministers a better timetable, a clear timetable, a commitment to work. So perhaps the panel, if I may say, in not being able to support part (b), they have almost got perhaps 2½ or 2 and three-quarters of what they wanted and that is a positive move forward as well. I will leave the rest of those remarks to the Minister for Social Security, the Minister for Health and Social Services and other Members.

#### **7.2.4 Senator F. du H. Le Gresley:**

I feel as though I am now the thunder after the lightening or something. Yes, I am standing to address part 2 of the Scrutiny Panel's amendments and I would like to join with others who have complimented the panel on their thought-provoking and very well researched report. However, it is the contents of their report and the views expressed by the G.P. representatives in the Scrutiny hearing which provide the background to my opposition and that of the Council of Ministers to this part of the amendment. Both the Scrutiny Report and the evidence provided by the G.P.s' point to the massive complexity of the task facing the Health and Social Services Department and the States as a whole. I think the chairman, in proposing the amendment, said: "Acknowledge that this is a significant task" and she is absolutely correct. The G.P.s also reminded the Scrutiny Panel of previous unsuccessful attempts to review health policy and the importance of ensuring that the current process produces real progress and also the key issue of co-ordinating the provision of new services with agreed funding for these services. The Council of Ministers fully supports the concept that strategy and funding need to be developed at the same time. The original proposition refers to a completion date by the end of 2014 and Ministers will support part 3 of this amendment to complete the review of both the model of primary care and the funding mechanism by September 2014. However, amendment 2 requires the model of primary care to be developed by the end of 2013, in other words ahead of the funding model. I have to say to Members that although I am an impatient person it really is not realistic to believe that we can complete all the necessary work to co-ordinate all the different areas of primary care in the next 14 months. The written comments set out some of the steps that will be needed during this time and outlines an already ambitious timetable to complete this work by September 2014. At the next sitting we will be debating P.88 in respect of future transfers from the Health Insurance Fund to fund primary care services currently offered by Health and Social Services themselves or funded through S.L.A.s (service level agreements) with third sector providers. Sorry, I should not call them that, voluntary and community providers. The report that I have issued with P.88 sets out some of the progress that we have achieved over the last 2 years. I will not read them all out but there are 21 separate areas that

have been addressed since November 2010. Most notably a significant amount of work has been progressed in respect of primary care governance. A small primary care governance team is now in post for the part-time Primary Care Medical Director providing the responsible officer role. The quality improvement framework has been agreed with G.P.s and funding from the Health Insurance Fund has been made available for the past 2 years to support G.P.s progress towards the use of a G.P. central server where all patient records will be stored. This is a difficult and very complex area and we need to make sure that, firstly, we identify a workable primary care model for Jersey. Secondly, that we can attract the right healthcare professionals to provide the services we need, and thirdly, that we can afford to pay for the chosen solution. As the G.P.s explained in their evidence to the Scrutiny Panel, we need to develop a model of primary care that makes good use of a much wider range of health professionals than at present. The main proposition refers specifically to involving G.P.s, dentists, optometrists and pharmacists in the development of a new model of primary care. However, we also need to consider the future services that will be provided by practice nurses, midwives, social workers, psychological counsellors, healthcare assistants and providers in the private sector such as Family Nursing and Home Care. All these groups must be given the opportunity to contribute to the development of a new model of primary care. Of course, they will have differing views on the provision of services and appropriate funding mechanisms. We must provide time for these views to be considered and an agreement to be reached on a sensible way forward. I am sure that today we will say to the people of Jersey that we are all committed to improving our health service. However, there are always risks attached to change and we cannot put ourselves in a position where we have not had sufficient time to identify and minimise potential risks and unintended consequences. In summary, while I fully understand the desire to move forward as soon as possible, I believe it would be foolish to agree to an unrealistic timetable at this point. It is essential that this review is thorough and that the new model of primary care can be successfully delivered. Working towards a new model of primary care, and a sustainable funding mechanism, by September 2014 will still provide time for actions to be taken in late 2014 and early 2015 to implement the agreed proposals in time for the new funding cycle starting in 2016. I urge Members to reject amendment number 2.

**7.2.5 Senator S.C. Ferguson:**

That was very depressing. You know, I think it was Hugh Hefner, when he was wanting his Boeing 70-something or other which was all black, he had a lot of aides and assistants and so on all standing around wringing their hands and saying: "It cannot be done." He just looked at them all and said: "Do not tell me it cannot be done, tell me how it can be done." I really think we need a bit of that here today. I think all these amendments are worth supporting. I think it is absolutely essential to have the relevant information before we agree to spend the best part of half a billion pounds. I will say that again slowly, half a billion pounds. Before we agree to spend half a billion pounds on a new hospital. The second amendment on primary care ... No, I am not giving way, Senator Ozouf.

**The Bailiff:**

Can we go back to the usual rules of debate, Senator Ozouf?

**Senator S.C. Ferguson:**

I do not know, Sir, this is more entertaining, is it not? I am reading his iPad too. [Laughter]

**Senator P.F.C. Ozouf:**

I was looking up who Hugh Hefner was: I think I was not born. [Laughter]

**Senator S.C. Ferguson:**



I am not going to reply to that but I am very tempted. That is amendment one. Yes, we need the information. The second amendment on primary care is absolutely essential. To reform the health system without putting the primary care system first is not the way to go. If we want to do what the public want then primary care first is the way we must go. I have said before in this Assembly that proper primary care will reduce the number of beds we shall need since there will be a reduction in non-elective medical admissions. As I have said before, roughly 5½ per cent of hospital non-elective admissions account for some 50 per cent of hospital consumption. Get the primary care right and we can prevent a significant number of those admissions. We are falling into the same trap as we have been in for the last heaven knows how many years concentrating on the hospital and ignoring primary care, putting primary care second. Not good enough. The Minister for Social Security talks of complexity, and as I said in my little parable, we are giving up before we begin. It is not good enough. Do not tell me it cannot be done, tell me how it can be. Frankly, talking about primary care I use my pharmacist as much as my doctor. There are plenty of models of primary care to learn from and we are not reinventing the wheel. The co-payment idea for funding that the chairman of the Scrutiny Panel mentioned with special provision for the less well-off is well worth following up and I think they use that idea in Australia and New Zealand and, I am sorry, Deputy Le Hérisier, possibly Singapore. I support all 3 amendments and I recommend them to the House.

#### **7.2.6 Deputy J.A. Hilton:**

Just briefly. Firstly, I would just like to thank our honorary adviser who is sitting up in the public gallery. He gave us a tremendous amount of hours in helping us pull the Scrutiny Panel together. **[Approbation]** I wanted to thank him for his contribution and indeed to our other advisers. I just wanted to talk briefly about the hospital; whether it is a new-build on a completely new site or a rebuild on the existing site. Any Member who has walked around the hospital in the last couple of years could not help but be dismayed, I believe, by the state of the hospital.

[14:45]

How this Assembly has managed to allow this hospital to deteriorate to such an extent I really do not know. I do not include the Minister who is sitting to my right but I do believe that we have been failed by previous Ministers and Presidents of Health who have sat on their hands and really not done the work that they should have done. I wanted to make that point because I feel very, very strongly about it because at the end of the day the buck lies with the Minister, in my opinion. I congratulate the Minister for doing the amount of work that she has done in bringing it to the Assembly today. I just wanted to mention the hospital because I have had a couple of queries around bed numbers. The Minister, in her speech to us, said that if we accept the proposition today about primary care that we will need 304 beds by 2040 instead of 418 beds. What I do not quite understand is ... I know in the proposition they are talking about having 50 beds built in the intermediate period until the new hospital is built because we know that we are running out of beds twice a month currently. So I know the plan is to build the 50 beds. What I do not understand is if we have currently 245 beds and we know we are going to build 50 beds in the intermediate period, which is 295, it seems to me that we are talking about only having 9 additional beds in a new build. I was just wondering if the Minister could just explain a little bit of that.

#### **The Bailiff:**

Deputy, can I ask you to come back to the amendment? We are only talking about the timetables and of course it may be necessary to go into the detail of what is proposed to be done in order to say whether it can or cannot be done in the timetable but the limit of this debate is on the timetables.

#### **Deputy J.A. Hilton:**

We are talking about the costs and implications being brought back to the House and I just wanted to raise those matters. I am not going to add to what my chairman has said on the other amendments or what Senator Ferguson said because I absolutely agree with everything they said. It goes without saying that I do support all the amendments. Thank you.

#### **7.2.7 The Deputy of St. Martin:**

I would just like to add my compliments along with the Council of Ministers for the quality of this review from Scrutiny. As the Council of Ministers say, it is well resourced and very well researched. They quite rightly support amendments 1 and 3 but then you have to ask yourself the question, if this review is so well resourced and so well researched why would it propose an amendment that they would not wish to support? I would only draw attention of Members to the proposal itself, in (b)(ii) in the wording of the first line because we are not being asked to support an amendment here for a new model to be implemented by the end of next year, we are not being asked to support the development of a new model or a proposal for a new model. We are being asked to support proposals to develop a new model. It is not finite and I would urge Members to support this amendment. It is asking to speed-up the process but we are certainly not asking the Council of Ministers to come forward with a model by the end of next year and I think we have more time.

#### **7.2.8 Deputy J.A. Martin:**

It is surprising how some people can interpret words because I thought the amendment - and I am sure that is what the Scrutiny Panel said - is to bring forward the proposals and by bringing them forward to the end of 2013 instead of the end of 2014, and along with the Council of Ministers I again want to emphasise I do not think the Minister for Social Security made this quite hard enough, and he is the Minister for Social Security. I am Assistant Minister for Health but I still deal with constituents who have never ever been near a dentist or an optician. Obviously they have been to a pharmacy but the other 2 are so pertinent to primary care and the model that we bring forward. We missed the trick years and years ago under the primary care model where dentists were included and if we rush ahead with this ... Scrutiny themselves say they have had many discussions with the G.P.s. We admit we are quite a way down the line with G.P.s but we say on the timeline where the work needs to be concentrated. You could miss the boat today by supporting this amendment by rushing things through and we again do not have dentists and opticians in our primary care model because I am told quite reliably by the Minister for Social Security there is a pot of money. If you give it all over to one body it will not come back again. You cannot do one without the other. I agree with everything else. I have been in the Scrutiny, I have been on this panel for 3 years and I understand where they are coming from but please, there was a very good Scrutiny debate by their predecessors with Deputy De Sousa on the inclusion of dental alone and we have missed it for so many years. Let us get this primary care right. The timetable is there, it is going out in March. We do not want, as the Deputy of St. Martin wants or thinks we want, just proposals about it: we want grounds, schemes, how it will work, and the pot of money by 2014. That is what we aim for and hopefully we will get there. I cannot see us getting there with the other 3 by 2013. It is a shame. You have got to bring these people around the table, you have got to ask them how we can work with them, and for the people that I represent alone, I could not just do it with one part and then say we are going to sort out the other 3. It will not work and I am very sorry Scrutiny but this amendment does not get my backing because the other 2 ... I would love to do it. I would love to have done it yesterday. I would love to have done it when I was first in the States 12 years ago. It did not happen and this is why it did not happen because we get tunnel vision and we concentrate on one arm and we do not need to do that. We need legs, arms and everything and that is the 4 primary care providers. I am very sorry, I cannot support this and I really do urge you to seriously consider where this could lead us if we do support it. Thank you.

### **7.2.9 Senator L.J. Farnham:**

Just very briefly. I am not sure how many Members have taken it upon themselves to do some research and speak to professional, at front line, primary care practitioners but it is very clear - because I was minded to support the second the amendment - when you speak to people, and I have over the last week spoken to a number of people from G.P.s to dentists and pharmacists, and they all are keen to get this through but they are all very concerned that if it is rushed through it will not be done properly. I just wanted to add that. I do not think Members who have spoken in favour of this amendment have communicated properly with primary care staff because if they had they would have got the same message. I got that message unanimously from every primary care professional I spoke to. The same message: "Yes, but let us get it right."

### **7.2.10 Senator I.J. Gorst:**

Perhaps I am going to sound like a broken record but I want to join with the other Members who have congratulated the Scrutiny Panel on their report. They have worked hard. It has been under quite difficult circumstances. They have had to work quickly and we know that, not being disrespectful to other panels but it is probably a fair reflection to say they have the highest workload of any of the current Scrutiny Panels. I am grateful for the way that they have tackled the tasks before them and are supportive of the policy this afternoon. I am slightly disappointed that some Members seem to have misunderstood what is the fundamental rationale for the White Paper, which we are going to go on and debate shortly, and that is to get care out at the most appropriate place to benefit the health of every member of our community. Senator Ferguson is right; that is about delivering care in the community setting. The whole White Paper is premised upon delivering care in that setting so that we minimise the need for the growth of the hospital. It is not, as she suggested in her remarks, the reverse. I think it is important that we acknowledge that. This paper is not concentrating on the hospital. It is concentrating on delivering care in the community where it delivers the best health outcomes. Mr. Hefner, I believe, if we are to tell the full story, had control and also had money to throw at problems. The Senator will be well aware that Ministers have neither of those and have to come and argue the case for the use of taxpayers' money and get policy development and changes through with consultation, with negotiation and with consensus. I believe that is absolutely right and it should not be any other way. Why is that important? It is important because with regard to the second amendment, and I hope I am not telling tales out of school, the Ministerial Oversight Group recognised the work of this Scrutiny Panel and wanted, as far as we possibly could, to be able to accept constructive, helpful amendments and we approached these amendments from the point of view of: "Why is it not possible to do what Scrutiny want us to do? Why is it not possible to bring forward this piece of work to a shorter timescale? Persuade us. Demonstrate to us that we cannot do it quicker." It is from that that we had a very constructive discussion about why it is incumbent upon Ministers to be honest and to come forward with realistic timescales to this Assembly. We would like to do it quicker than we are proposing to do it and for that reason we understand why the Scrutiny Panel have come forward with the timetable that they have but, if we go back to the parable as Senator Ferguson referred to it, this is a reasonably disparate group of interested parties, we have got the G.P.s, we have got dentists, we have got opticians, we have got pharmacists. We have to work carefully with all of those groups. Some of their interests will not be aligned and, as Deputy Martin quite rightly said, there is only one pot of money. We must make sure that that money is divided up in the fairest but also in the way that gives the best health outcomes that we all desire. Therefore, this is not a 'we cannot do' attitude, it is exactly the reverse. We have got to get it right. We are absolutely committed to getting it right because like Senator Ferguson we do not want to have to build a hospital bigger than we need. We do not want people to have to be cared for in an institutional setting if we can avoid it at all because we know that, to use somebody else's phrase, you certainly would not want to go to hospital unless you were ill because you might catch something. Therefore, we know that the

community setting is the best possible place. We have got to get it right. If we rush it, if we do not do it properly, if we do not negotiate, if we do not consult, if we do not build consensus, then there is a very real possibility of us going in favour of one group rather than the other and not getting the outcomes that we know that we all need. That is why the Council of Ministers and the Ministerial Oversight Group decided that on balance it was better to take the appropriate amount of time to get it right and to build a proper consensus rather than just simply saying: “We are going to try to achieve something by the end of 2013.” I believe that that is exactly what Members would expect of Ministers and the Ministerial Oversight Group. So we fully understand that this work needs to be done as quickly as possible, as Scrutiny said. We fully understand the rationale for their amendment and the desire for Ministers to do it as quickly as possible but what we are trying to say is that with the best will in the world this timetable will not be realistic to achieve what I know the Scrutiny Panel want to achieve. Therefore, I ask that bearing that in mind, Members will accept amendments 1 and 3 but give Ministers the ability to do the work properly. Thank you.

[15:00]

#### **7.2.11 Deputy G.P. Southern:**

It is very, very rare for me to stand up and support the Chief Minister especially when he talks about doing something over a longer time period than a shorter but I believe that what he had to say was absolutely correct. Senator Ferguson made a good case for starting with primary health care and getting it right. What she did not make a case for was doing it quickly because the risk is that we do not get it right. On that particular amendment I cannot see the reason to hurry up. Certainly in talking with G.P.s in my previous life as head of H.S.S. (Health and Social Services) Scrutiny, getting it right was very much the emphasis of what was needed. A major reform of how we fund our primary health care; but let us get it right because the risk is otherwise we will have increasingly a number of people on our Island who cannot afford that primary health care and that is to be avoided, I would say, at all cost. I believe we are already in that position and in order to get out of that position we have to get it right. If that takes 2 years then it takes 2 years. On the first amendment, of course I cannot see anybody not supporting that amendment because manpower, as it says, will be the issue. We already cannot recruit the required professionals to staff the service that we have now. As we go forward we must be able to recruit and manpower is the critical issue. We have to be able to recruit and retain the right level of professionals on the Island. When it comes to amendment 3 however, I just cannot see logic in it whatsoever. It seems to me to say: “We are making the decisions in this particular Assembly, including a number of relative newcomers, and yet we cannot pass this decision on to the next Assembly with its new Members because that would be somehow too risky or irresponsible.” The fact is we have just created a new House with some fairly new fresh-faced and perhaps relatively naïve Members of this House. To say that we have to make this decision I find absolutely ludicrous. The way democracy works is that when one Assembly comes to an end you do get fresh blood in and you do get fresh people there and they have to make hard and fast and delicate decisions. That is the way it works. To say that we must do it because we have got an election coming up and it has got to be this House is absolutely absurd and not a reason for doing anything so I do not think we should be supporting amendment 3 either.

#### **7.2.12 The Deputy of St. Ouen:**

I think first of all I would just like to echo a couple of words that have already been spoken before I do speak on each of the amendments. First of all, all parts of the report and proposition are inter-related. All parts are inter-related if we are to have and realise the proposals as contained within it and the changes that are anticipated. It is absolutely right that we get it right. The first amendment is relatively simple because all it is designed to do is to ensure that any proposals for the priorities for investment in hospital services and detail plans for a rebuild or new hospital include the

necessary manpower resources. I would like to focus, rather than the Minister for Health and Social Services did perhaps in her presentation of the proposition, on the investment in hospital services rather than necessarily detailed plans for a rebuild hospital. On page 58 of the report accompanying the proposition, headed "5.5 Sustaining Hospital Services", we are told that work on the acute services has already started with key stakeholders across the hospital and will continue through 2013 and 2014. This work will progress service changes required in phase one of the redesign of health and social care services in Jersey and identify, prioritise and plan for strategic investments required from 2015 onwards. The report itself raises a number of issues including the possible need for nurse-led and consultant-led outreach services in the community, and also the possibility of a G.P.-led hospital based service. The report also highlights the fact that although modern state-of-the-art services and facilities are vital there is equally a need to build primary and community services to offer alternatives to relieve pressure on the hospital which in turn will create a sustainable system. So I fully support the view that if we are going to achieve the overarching objective and the right outcome of sustainable and viable hospital services within an integrated health and social care model is of fundamental importance. Generally speaking, each of those proposals contained in sections 4 and 5 have merits on their own rights. However, it is less than clear that sufficient attention has been given to how the interdependence of different elements of the proposed services will interact with the system as a whole. I will come back to that point when I speak a bit more in detail on the second amendment. For instance, to use a hypothetical case, if we have one very busy Cardiology Department, how easily could an outreach community cardiac clinic be staffed and would we see a duplication of equipment already available at the hospital? With these and other matters the panel has brought various recommendations including the absolute need that we need to understand the full financial and manpower implications - and I stress that, manpower implications - to the proposals. With regard to the second amendment, the Minister for Social Security raised concerns over the complexity of the task but the whole emphasis, as the Chief Minister has said, is that the report and proposition is concentrating on delivering care in the community and in fact phase one, that we are going to be agreeing the funding for in 2 weeks' time, is all about care in the community. The majority of it is about primary care. How are we going to have confidence in the delivery of those services between 2013 and 2015 if, as the Council of Ministers are suggesting, we do not know or have a primary care model developed until the end of 2014? Where is a partnership approach? Where is the confidence that either the public or indeed the key stakeholders can have in the fact that they will be fully involved in those services? On page 63 of the report accompanying the main proposition it also states that primary care should be the first point of contact for people who are ill or believe themselves to be ill other than for emergencies. It goes on to say: "It should be inclusive ensuring equal access to people of all ages regardless of social background." We are also told that above all it is essential that the role of primary care is supported and enhanced, that the pace of change is correct and that all primary care practitioners are fully involved. I absolutely- and the panel would suggest - fully endorse this view. That holistic approach to diagnosis and management of the patient, based on his or her broad scientific training, is a key asset of the general practitioner which must not be lost in the proposed creation of multi-disciplinary teams and well-being centres that are suggested and mentioned in phases one and 2 of the proposition. The development of a new primary care model in partnership with all key stakeholders is essential if the proposed service changes required in phase one are to be delivered. Otherwise how will they be? No one has explained as yet how those services will be delivered. I would like to remind Members of some of the services with regards children: "In 2013 to 2015 services for children aged up to 5 will be overhauled during this stage. This would include making it easier for parents with young children to visit their G.P." and it is focusing on 0 to 5s. If we have not got a primary care model in place by the end of 2013 what chance do we have that we will be able to deliver on what the Health and Social Services Department and the Council of Ministers firmly believe, as I do, is an essential and additional service. The Minister for Social

Security spoke about the issue of cost. I would like to remind the Minister for Social Security that the long-term care funding has already been agreed within this Assembly last year. The Minister, for various reasons, has chosen not to implement it but part of the reason for the long-term care plan that this States agreed was that it would allow people to be looked after in their own homes and fulfil many of the criteria and outline business cases that are set out within this report and proposition. Are we to expect further time slippage? Is the Minister for Social Security saying: “Well, yes, I put it off, let us leave it to the end of 2014 but it might not happen because we will have a new Minister coming in 2015 and it could be another delay.” Let us not forget that, as we have already been told, phase one is funded possibly within the Medium-Term Financial Plan but equally we have already been told that phases 2 and 3 require significant additional funding. How on earth are we supposed to embark with any certainty on a plan that is set to be delivered over 10 years if we are not even sure that the primary care model is going to be in place by the end of this term? At the end of the first 3 years of the plan, who is going to deliver it? It seems as though there is a need for a more integrated and less blinkered approach to be taken by the Council of Ministers and the Ministerial Group who are advising and supporting the Minister for Health and Social Services in the development of this plan because these are the matters, in all truthfulness, that should have been sorted out before we moved forward and set out to deliver and fund the new services. On the third amendment, and I apologise if I am speaking perhaps too long for some people but I think it is important that we cover some of these issues. The proposed redesign of the health and social care services is without doubt one of the most significant decisions the States of Jersey has been required to make. First and foremost, if we are, as I said before, to embark on this 10-year plan the public above all else must be assured that the new services will be accessible, appropriate, safe and affordable. It would be totally wrong for this States to give outright approval to a major service redesign without fully understanding the full cost and how it will be funded. We are told that for the first 3-year period of the plan funding can be provided within existing resources.

[15:15]

Therefore, no increases in charges or taxes are envisaged. However, and this is theirs, not mine: “Funding of the proposals after 2015 has yet to be identified. Throughout our review the public and other key stakeholders have voiced their concerns and demonstrated a level of anxiety over the implementation of the plan and the costs and associated risks, although many accept that investment is required. Questions were also raised over how funding would flow through the system and which service areas and providers would receive funding. For the most part these questions are still unanswered. This Island faces many significant challenges over the next 10 years, including the need to identify a suitable and sustainable way for the public to access high quality health and social care within a financially affordable sum.” At this time it is hard to determine whether proposals contained in part (a) of the proposition are affordable as more work still has to be undertaken, as already highlighted by the Minister for Health and Social Services. Substantial capital investment estimated to be in the region of £400 million is also required to rebuild a new hospital. There is also the cost of ongoing investment necessary to enhance current facilities and provide new ones within the community. Even KPMG identified various risks with adopting the new model of health and social care, including a risk that funding mechanisms might create financial disincentives to access primary care and other services. We cannot and must not find ourselves in that position. The panel also has concerns that overall population figures, demographic assumptions, and projections used by KPMG and the Health Department, were open to challenge in light of the latest population data. Let us not forget that this Assembly will not consider a new population policy until next year. Dependent on the outcome of that debate there could be significant changes for predicted demand and cost of the new model of health and social care services. Throughout the review the panel would have liked to have seen fuller information

about the costs and potential funding mechanisms and we accept that there is a process to go through. However, we do not believe necessarily that the current situation is as satisfactory as it could be. At the moment we find that the States Members and the public are being asked to will the end but not the means. The aim of the third amendment is to ensure that this Assembly - who staffs and helps Health on the way forward - also considers, quite appropriately, the cost of those services to be provided and ensures that indeed the public and this Island are able to afford them.

**7.2.13 The Connétable of St. Peter:**

I think I would have described myself as confused of St. Peter after listening to the Deputy of St. Ouen there. I was not sure whether he was addressing either part 2 of the Scrutiny's recommendations or the main substantive proposition. But the one point I really wanted to pick up is he made a comment about we are not going to deliver the primary care reform within the life of this Chamber. The Council of Ministers' comments says that finalised proposals for a new model of primary care September 2014, which is within the life of this Chamber. That is the only comment I wish to make.

**7.2.14 Deputy A.K.F. Green of St. Helier:**

I think the Deputy of St. Ouen put a very good case - I am only going to speak on number 2 - for taking our time and getting it right under number 2. He unfairly, I think, criticised the Minister for Social Security because he has had to delay the introduction of the long-term care system and that is a very good example of trying to rush in and do something that we know is right, but not allowing enough time to research something properly and delivering what the public actually need. That is the only reason why the Minister for Social Security delayed that. Here we are looking at a whole host of primary care functions that need to be provided and Deputy Martin was absolutely right, we have people in our community now that would not go near a dentist, that have no teeth in their head, and that is just one aspect of the care that they cannot access. We cannot continue like that, we have to get this right. In reply to Senator Ferguson: "Tell me how?" I will tell the Members how, take our time, do our research, get it right and deliver a plan at the end of 2014.

**The Deputy of St. Peter:**

Sir, I would like to ask your advice, if I may. It seems that perhaps every Member has spoken anyway but...

**The Bailiff:**

Not yet, but maybe.

**The Deputy of St. Peter:**

I think perhaps we can come to some sort of compromise here and it seems in listening to the Assembly today - and I am very grateful for Members' time - that if regarding amendment 2 we could perhaps ask for a date of the end of September 2014 to be brought then we may achieve everything in a streamlined fashion. I could perhaps suggest that to the Assembly as a way forward.

**The Bailiff:**

I am sorry, Deputy, it is not possible under Standing Orders to amend the amended proposition at this stage.

**Senator I.J. Gorst:**

Sir, perhaps I could help, I have corresponded with the Deputy of St. Peter during the last speech, so I am grateful for its length. [Laughter] The Council of Ministers are quite happy and content to agree that we will complete the work by the end of September 2014. Looking through our

comments I think we do confirm that in the written comments as well and, therefore, the Deputy can take extra assurance from that and not just me standing up today and perhaps she then could consider withdrawing that part of the amendment.

**The Bailiff:**

That is technically a way forward, Deputy, if that is what you want to do. We have to ask Members whether they are prepared to agree that you remove this part from...

**The Deputy of St. Peter:**

Yes, but we would seek assurances from the Council of Ministers that this would be done and we could work together to do that on the timescale so that there is a simultaneous agreement of the funding mechanism and the primary care model.

**The Bailiff:**

What I understand you to be asking me is whether I will put to Members your wish to withdraw paragraph 2 of the amendment against the undertaking from the Chief Minister to deliver the new model of primary care by the end of September 2014?

**The Deputy of St. Peter:**

With that undertaking, yes, we would withdraw part (b).

**The Bailiff:**

Is that proposal to withdraw the paragraph on those terms seconded? **(Seconded)** Are Members content to allow this... the appel is called for. The proposition is from the Deputy of St. Peter to withdraw the amendment, page 2, paragraph (b), against the undertaking of the Chief Minister to ensure that the new model of primary care proposals are delivered by the end of September 2014. I invite Members to return to their seats and I will ask the Greffier to open the vote.

<b>POUR: 41</b>	<b>CONTRE: 4</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier	Senator S.C. Ferguson	Deputy J.A.N. Le Fondré (L)
Senator P.F.C. Ozouf	Deputy of St. Ouen	
Senator B.I. Le Marquand	Deputy T.A. Vallois (S)	
Senator F. du H. Le Gresley	Deputy M.R. Higgins (H)	
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		



Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

**The Bailiff:**

Very well, then I daresay that Members probably do not want to speak anymore on the remaining parts of the amendment, do they? Then I would ask the Deputy of St. Peter to sum up if she wishes to.

**7.2.15 The Deputy of St. Peter:**

I shall be very brief. I am very grateful for the time of the Assembly today and I think in listening to the points that have been made we have achieved a sensible way forward that I think will work for every Member of the Assembly. We were basically being told that were being ambitious regarding our second amendment and we feel as a panel that it is right to be ambitious about health care, it is absolutely essential that we have the best primary care model for Islanders to seek their first port of call when they are unwell. In doing so it is with regret that I withdraw that part of our amendment, yet I think that it will - in the words of Senator Le Gresley, the Minister for Social Security - operate a streamlined mechanism that will bring the primary care model together with the funding structure and the 2 of them do need to be done in tandem. I will thank you all for your comments and I will ask for the appel.

**Deputy G.P. Southern:**

Can we have a separate vote on 1 and 3?

**The Bailiff:**

Yes, that is what the Deputy requested in the first instance. The appel is called for in relation to the amendment number 1, in subparagraph (i), after the words “on the current site” insert the words “including full details of all manpower resource implications necessary to implement the proposals”. I will ask the Greffier to open the voting.

<b>POUR: 46</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				

Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

I will ask the Greffier to reset the voting. I will ask the Greffier to open the voting in respect of amendment 3 in subparagraph (iii) for the words “by the end of 2014” substitute the words “before the end of September 2014”.

<b>POUR: 44</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Deputy G.P. Southern (H)	
Senator P.F.C. Ozouf		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		

Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

We now return to the main proposition, as amended. It has been proposed, does any Member wish to speak?

### **7.3 Health and Social Services: A New Way Forward (P.82/2012) - as amended**

#### **7.3.1 Senator P.F. Routier:**

The chairman of the Scrutiny Panel said just now that she was wanting to be ambitious about health care and I think we can all endorse that. I also want to be ambitious about social care because this is a health and social care proposition and I believe that we need to put a lot of emphasis on ensuring that our social services are top notch. We need to ensure that we have in place the right structure to ensure that people who are vulnerable in our community do receive the correct amount of support. I know this is going to be a long journey for all of us, we are talking about putting things in place for future years. But it is a journey which I think we should all try and sign-up to, to ensure that our services are appropriate. To achieve our social services - hopefully we can have

excellent services - we are going to be relying on the third sector, I will call it the third sector, and I believe that we are very, very fortunate in our Island to have excellent third sector organisations and we need to ensure that we work with them, we need to ensure that we appreciate what they do.

[15:30]

We need to ensure that when we are negotiating with them we understand their needs as well as our needs. I know in recent times there have been one or 2 highlighted occasions where things perhaps have not gone how we would have like them to have gone, that there have been organisations which have felt that perhaps the negotiations have not been appropriate. But I think it needs all sides to understand the needs of the States and also the needs of the voluntary organisations. I think for the States side we need to have a system whereby we negotiate in a way which is appropriate for the size of the organisation because some organisations are large organisations, and some organisations are small organisations. The smaller organisations do not have the wherewithal to be able to negotiate at the same sort of level and structure as the major organisations. I know in the opening that the Minister did refer to the need to ensure that we did relate to the third sector organisations in an appropriate way and I really just would like that to be recognised and perhaps in the Minister's summing up she would be kind enough to re-emphasise the fact that there is a recognition that the third sector is a major part of our Island life and also that they will be valued and communicated with effectively, and to ensure that they are able to provide the services that our Island needs.

### **7.3.2 The Connétable of St. Martin:**

I would like to congratulate the Council of Ministers on the projet and the redesign of the health and social care services for the Island, and in particular to the Minister for Health and Social Services and her team for the work that she and the others have undertaken over such a prolonged period. The 87 pages of the White Paper were a result of much hard work and much research and much soul-searching. I have been to numerous presentations during my short term in office and even some before, and I understand the problems we face. The fact is this document outlines how the Island currently stands, how the health service stands at the moment, whether we like it or not. Basically we have Health and Social Services saying to us: "We have a problem, Houston" and it is us at base control - this Assembly - who need to try and sort it out. The Minister and her team have indeed started that essential work. It is very worrying to read comments - quite dramatic comments - within the paper: "Without service changes Jersey Hospital will start to run out of beds by 2017." We are only 4 years away from that, and: "Due to the demographic pressure caused by our elderly population, capacity will be exceeded within the next year." I think... I hope we all accept that everything has to be paid for and that the easier times - if there have been easier times - have long passed. All the reasons for the problems that we now have facing us with these proposals, they are contained in the document. More people in the Island, unexpected immigration to the levels that we have, people living longer; and I hope people understand that we are not blaming people for living longer; as we get older we do not want to be the cause of that being looked at as being the cause of the problem. Earlier retirement in some cases, less money, older buildings that are now unsuitable for use, shortage of trained staff, shortage of doctors and specialists, and the recession. The list is endless. If I can just briefly say, the proposition has given us a way of addressing the problem, as the Minister said earlier this afternoon, and it is probably the most important proposition that we are likely to discuss during the term of this Assembly, probably also the composition of the States and the Medium-Term Financial Plan, it is something that will unfortunately affect every one of us at some stage in the future and I think we all have to declare an interest. When reading the paper on the health service 3,000 staff, £171 million budget, 86 various sites, I would like to thank the Minister for making the time for new Members and existing Members to visit the hospital and the homes after we took up office and for us to be able to see the

facilities available. Many of the facilities are superb but others were cluttered, staff working in cluttered conditions, working behind the actual scenes that we do not normally see when we go to the hospital, and the staff working their best behind those. I spent 3 full days last week with States colleagues listening to appeals, mainly from African countries, as an overseas aid commissioner and seeing some of the conditions of those hospitals. We are very fortunate and grateful to have the services that we have and I know that the care my family have received over many years has been second to none in Jersey. But we have a problem. Health and social care on the Island is not sustainable and that is important to know. Islanders have appeared to have accepted the findings. We did hear that 98 per cent agreed on some of the papers, 98 per cent agreed on many issues. I think we do have to remember that 98 per cent, 1,350 responses, is just 1.3 per cent of the population. Just a couple of issues I would like to talk about: primary care, I think this is one of the main worries and it has been discussed already this afternoon, for those who cannot afford doctors, those who cannot afford a carer, those who cannot afford private nursing homes. Although I, like many, can visit a doctor and a dentist and I know they are expensive, I am in the fortunate position to be able to pay for my visit, although there are many others who will not and who will question before they go to the doctor. I know many people who think twice because they think it is very expensive, the elderly people trying to survive on their States pension is an example. One of the comments in the paper which was quite surprising, 48 per cent felt going to the doctor too expensive and only go to the doctor when they really have to. Goodness me, it is common sense you only go to the doctor when you really have to. The long-term care, I have an elderly parishioner who is paying over £1,000 a week to keep their elderly mother in a nursing home. It is okay to say the parishioner must have money to pay that but, however, that parishioner may have had that money, they do not know and that parishioner who is elderly is likely to need the care in the future. The thing that frustrates so many people is that one can save all their working life, pay all their bills, pay all their contributions and taxes and then find as they get older they have to use nearly all of their remaining savings to pay for their own care, [Approbation] their doctors, their eye tests, and then their nursing care. I accept that we have to use some of our own money to do that but we cannot expect to have it at hand. The man or lady who may live next door to the parishioner who has squandered everything during their life, never worked, smoked heavily, drunk to excess, many things that may have caused them ill health at the later stages of their life and they provided with all the free services merely because they have not got anything to fall back on, it is utter frustration for them. Care at home: it is fine having care at home with people coming in but that too is costing people and I know that from experiences with my family that when people do come in there is a charge. Looking at using the words "third sector" I believe the Parishes indeed have a huge part to play, but it must not be seen as a cheap option for the States of Jersey. The Parishes too are in the same financial position, trying to support their parishioners and trying to keep their rates at the lowest level. I believe this Island owes a debt of gratitude to the vast and huge number of volunteer groups, voluntary carers, and charities operating on this Island because I think if we did not have them we would now be in a critical situation. However, there is a limit for the third sector, in particular the charities that are doing everything for nothing. We know St. Clement have a support team, St. Lawrence have one, we are setting one up in St. Martin, and other Parishes probably do too. It might become the norm, but I ask that everything is done so that as few obstacles are put in place for those who want to help. I know other Parishes who are struggling to find helpers for their proposed support teams. We as a third sector organisation, the Parishes, are keen to engage more fully with health and social care, it is highlighted in the projet report that challenges do exist. Many of those who are prepared to give of their time to assist do not want to be treated as a suspect before they even start - police checks for safety reasons, how they can operate because of health and safety reasons - and then have this followed on by ensuring they gain consent of departments and individuals themselves to share information without breaching data protection regulations. You ask a lady of 60, 65, to fill in all these forms because she is

volunteering to help a Parish to go and collect somebody else to take them to a hospital appointment and you can see why support is not always forthcoming. Is it a wonder that some Parishes are struggling to find those prepared to support. I believe all the Parishes want to play their part because this is the very essence of parochial system that we have on the Island and that is so admired. We often hear our important role in maintaining that, but as a Parish Connétable and representing my parishioners, I do not want us to be described as part of the third sector, being just seen as another cheap option to offload responsibilities of the Government. The States of Jersey Health Department, our central Government, are already struggling so how are the Parishes coping with difficulty? I know I have a very limited budget, I do not have infinite resources but - like my colleague Connétables - rely on volunteers for rates assessing, for collecting the rate, including the Island-wide rate on behalf of the States, for monitoring the condition of the by-roads and for ensuring roads are clear of debris, for policing of the country Parishes in particular, and for all sorts of other issues. I have volunteer groups and clubs who look after the interests and welfare of their fellow parishioners, their neighbours. My colleagues have the same. I even have a former Member of this Assembly who cuts my village green every week for the love of his Parish. Had I to pay for this service then the rates would have to rise merely for having someone to cut a village green. That is how fine my budget is. I have a very small reserve for major and unexpected bills. Had not an anonymous benefactor or donor recently come to the rescue of St. Martin then it looked like our rectory would have to be sold-off to a developer or someone with a considerable pot. I have visions for helping my Parish I may be able to provide to the community in the coming years, but please do not make some of the third sector have to try to do even more free support while other sections of the third sector can reap-off considerable sums for private nursing. If I could conclude, I will support the proposition but we the Parishes need help too. We need to work with Government, if anyone is likely to see the problems the change may bring then it will be the Connétables within our communities. I do not want to see a hospital full of new managers and executive officers, but one with medical consultant surgeons, doctors and nurses. The Council of Ministers and the Minister for Health and Social Services are brave, facing up to the reality and merely saying it as it is. We might not like what we have been hearing but let us be positive and brave and support this proposition and let us lead and have a health and social care system that will be the model of best practice for isolated rural and island communities. [**Approbation**]

### **7.3.3 Deputy S. Pinel of St. Clement:**

Firstly I would like to add my congratulations to the Minister and her team at Health and Social Services for the extensive consultation and comprehensive briefings across all sections in the lead up to this debate. It seems to me that a key part of the report and proposition is to work more effectively and efficiently within the States of Jersey Ministries. In a similar vein to Senator Routier, we need to embrace the so-called third sector, far better described as the voluntary and community sector. This will only happen if we engage in a culture change to recognise that we in Government need to work together better than the silo approach that often pertains. I fully support the report and proposition but it will only work if we, the States, fully support the changes necessary to bring about true partnership, working both within the States and within our voluntary and community sector.

[15:45]

I would like some reassurance that this partnership will be taken openly and honestly and not see the record of broken promises and indifference that has so often characterised relations between the States Ministries and between them and the voluntary community sector.

### **7.3.4 The Deputy of St. Peter:**

I start with a quote from a transcript of a hearing we held with representatives of the G.P.s primary care body: "Since I have been in Jersey this is the best strategy I have seen that I believe gives us the clearest opportunity to move forward and develop, and I think if we do not take that opportunity I worry we are just going to fall back into the doldrums for the next 5, 6, 7 or 8 years until the demographic challenges that are facing Jersey become a real issue." I think that explains our engagement really because we are critically aware of what needs to be changed and what needs to be developed. You have heard from our Minister that she has heard similar comments during her consultation process and we have heard this message time and time again during our review. We have met with and received submissions from a variety of groups of stakeholders, we have met with the Minister and her officers and other Ministers on a number of occasions, and we are grateful to them for their input. We have questioned, researched, and searched for answers, generally to find that the department and the Ministerial Oversight Group have been through a similar thought process or analysed the same idea. To start with the conclusion first, we can only agree with the general direction of this proposition and we urge Members to accept these plans for reform. Our health system needs to move forward and we must seize this opportunity. Some of you will remember a plan for Health called "*New Directions*" that was introduced but never delivered the change it promised. In 2003 the Raftery Report was published by the University of Birmingham, this was unequivocal in stating the case for reform and investment in health in this Island. Nine years have passed since that report, in that time our population has grown by almost 10,000 and our hospital staff tell us - as you have heard already today - that they reach capacity at least twice a month and it is time that we see action. You may ask why we need to invest in change. It is true that many people who responded to the Green Paper by saying that they were happy with health care in the Island, and it is also true that our colleagues in Guernsey are going through a very different process in which they are having to decide which of their health services they can cut. We are here today because we need to catch up and modernise our health service, we need to plan for the future so that we can care for our ageing population, we need to upgrade our hospital services to meet modern standards and we need to create a better system of primary care that offers an affordable scheme. It may seem strange for a Scrutiny Panel chairman to be so positive and supportive of the Minister. I can assure we have gone through this process in depth and with the support of our excellent advisers who are 3 very wise men. In particular our honorary adviser who has given a great amount of time and his considerable experience to enhance our review and make it what it has been. **[Approbation]** You will have seen for yourself - if you have had time to read our report - there are gaps in the report and proposition before you, there are concerns, but it is hard not to support this report and proposition in its amended form. If adopted today we will ask the Minister to continue to work with the scrutiny panel regarding part (a) as the full business cases for the work streams are developed between now and Christmas. Deputy Hilton will go into more depth regarding these outlined business cases in her speech later. The remaining issues that will be voted on in part (b) of the proposition are items that will return to the Assembly for another vote in the future once they are fully developed. This is quite correct and Scrutiny will continue in its work on these issues. The spend on the new hospital will be biggest investment the Island has seen. We have all seen from R.125 that the predicted cost of that new hospital is already rising, whether it is rebuilt on the existing site or on a greenfield or brownfield site. We will continue to monitor those proposals as the decision is made regarding the site and beyond. Last night we sent you a note giving our initial analysis of R.125, in this brief report we raised several important questions, the most significant being whether this hospital scheme is affordable. We are unable to give a more detailed response without information and there remains uncertainty on a number of points. For example, it appears that the decision about the site will be made by the Council of Ministers, then a feasibility report will be undertaken - at great cost - regarding that site and the proposals will be brought to this Assembly for debate. This, we feel, is a risky strategy. We only have to look at the issue of the police station - Deputy Maçon reminded us of this earlier today. You look at the police

station and identify the delay and argument that can ensue when considering such a sensitive planning issue. There is not time for risky strategies and we also would urge the Minister to be open and to engage with States Members and the public in this process so that there is a buy-in and acceptance of her preferred option. As the Minister reminds us so regularly, doing nothing is not an option. This is particularly so with regard to the hospital where significant work will have to be done to keep it open and in an acceptable, safe way while we wait for a new hospital to be built. This is estimated to cost us between £5 million and £8 million a year just to keep the existing hospital open. The department also acknowledges in R.125 that 52 temporary intermediate care beds will have to be provided during this period in order to keep up with demand. There is no cost attributed to that plan. The new way forward for Health is not just about a new hospital, a key element is the simultaneous creation of intermediate care services, otherwise known as step-down services. These will operate alongside the new hospital. The idea is that these intermediate beds will relieve pressure on the acute services at the hospital by providing a rehabilitation and recuperation facility for those who are getting well but not well enough to cope on their own at home. R.125 suggests that 52 temporary intermediate beds will be needed while the long term building projects are planned for and completed. There is no indication of the costs for these facilities, nor are they mentioned in the report and proposition, one can assume they will come to the Assembly at a later stage. One other essential theme running through this reform is that of community care. Many people wish they could be cared for in their own homes rather than going into care. There is a clear demand from the public and we welcome the idea, once again, we question how workable this will be. To achieve this we will have a significant recruitment programme and the success of this project will rely heavily on the new model of primary care. This is due to be known by September 2014, we hope, as well as the introduction of the long-term care scheme which is yet to be determined. If people are to receive care in their own homes we want to know that they will be able to afford to see a doctor at their own home and that they will be able to access dressings and medicines at home that would be received as a matter of routine if they were in hospital. Systems of remote care are proposed, such as telehealth and telemedicine. These are still relatively new innovations and there have been many articles in the medical press of late questioning their effectiveness. We suggest that we proceed with caution in this area and perhaps choose one model where it can be trialled properly before going on ahead on a fuller basis. Finally, the Parishes will play a role here - as the Constable of St. Martin has described. We presume that this will be to provide community support teams to visit people and also premises with certain community based clinics to take place. A significant amount of work is yet to be done in this area and this will probably take greater shape as it is progressed with the primary care models. In bringing our amendment to (b)(ii) regarding the new model of primary care we knew that we were expecting a great deal in a relatively short period of time, however, we can see that there is significant need to achieve consensus in this area and there a great number of practitioners who will contribute to this, and we are grateful for the assurances that we have received that this will be done in tandem with the mechanism for a funding structure. Naturally, this group have their livelihoods at stake but they also are funded currently through the Health Insurance Fund which is managed by Social Security. Back in 2003 the Raftery Report was suggesting that the strategic purchasing of health care should be allocated to a single organisation. We would agree with this assertion and we would ask the Minister to engage with her colleague, the Minister for Social Security, as soon as possible to get this work underway. The lack of engagement with Social Security regarding these issues of fundamental importance was a key finding in our report and this must be addressed. It is in this area that the issue of an integrated I.T. system for healthcare professionals becomes apparent, there is no provision for this within the report and proposition, yet it is of utmost significance. An investment of this scale would enable better management of patient information and collection of data so that we could properly understand the trends and illness across the Island. Throughout its report KPMG highlighted a lack of data and the panel found this same problem.



This means that whatever the good intentions of reform there is no means for measuring its outcomes or successes, or indeed the performance of individuals or areas of expertise. To understand our needs to monitor performance we must have an evidence-based system and we urge the Minister to support a move to create a set of baseline data. Once this is available better clinical government can and should be put in place. We welcome in the Minister's speech her support for a non-executive board to be established, this is a great step forward. I hope I have given you an insight into the thinking of the panel. Deputy Hilton - as I said earlier - will concentrate on the outline business cases later. This is a highly complex project, so many elements of it impact on different departments and existing structures. We must not forget that the key player in this deal is the patient and the public at large. We are all aware from knocking on doors and talking to our constituents that Health, along with Education, are the key areas where the public want to see the very best we can provide for them and there is a willingness to spend more. That being said, we must always spend wisely. While we commend the report and the proposition to the Assembly, we urge the Minister to continue to work with us as the details develop. [Approval]

### **7.3.5 Senator B.I. Le Marquand:**

I rise briefly, firstly to express also my congratulations to the Minister and her team, and to the Scrutiny Panel on their excellent work. But there are 2 matters which I want to raise. The first one relates to an item which I understand was inadvertently omitted from the document which we are discussing - I believe that from my discussions both with the Minister and with the Chief Minister - and that was the proposal which was contained in the original consultation document for an independent oversight body for the hospitals and medical services. Having spent a lot of time working on a police authority in order to provide a parallel kind of oversight of the expenditure of money and ensuring that things can be looked at, at a lower level, I am very keen to see the equivalent for the hospitals. I would ask the Minister for Health and Social Services in her closing speech to confirm that my understanding is correct and that there is such a proposal, although obviously the details of that still need to be worked out. The second comment which I would make is in relation to the issue which is dealt with in the document but which, nevertheless, is an important issue to outline, and that is the issue of meaningful measures of outcomes. This is an extremely important area. Hopefully in a month or so we shall be voting additional monies in the Medium-Term Financial Plan to the Health and Social Services Department, monies which are very much needed, but we also need to have modern, up to date measures of outcomes so that we can measure and see exactly what we are getting for our money. Such detailed work in relation to this has been done in the U.K., very meaningful outcomes have been devised and I merely would ask the Minister to give the assurance to the Assembly and to myself that will be taken very soon and will form a major part of what will happen. That is all I wish to say, I will be supporting the proposition.

### **7.3.6 Deputy M. Tadier:**

First of all I think it is important to acknowledge the good work and the hard work of the health team that have put work into this ongoing consultation, and also to acknowledge the public engagement that has taken place, even though in the past we can all be slightly critical or cynical about the options that were given out saying that this is the only option that is viable. But I think we do recognise that change is necessary in the way that we deliver health care and that is of course this proposition perhaps today is not really the main debate, this is certainly something which I think we can all generally endorse. It is an in principle debate, but really the devil will be in the details; the big debates will come when it comes to where does the funding come from, who is paying, how are our public services being paid, does the burden fall on the user exclusively, does it fall on a mixture of general taxation and the user, or do we have to instate a completely different system of taxation in our Island which I believe will be the case. I think in the past - and certainly

even up to now - we have had a fairly good system of health care compared to other places and I get the feeling it is going to be difficult to find the level of public funding to pay for the public services that the public currently expect.

[16:00]

So that is going to be the major contentious area in the next few years. But I will not focus on that at the moment. I think we heard a very detailed speech and a good speech from the Constable of St. Martin and something that I also want to focus on is the paradox about the third sector and the over-reliance on the third sector. When I talk about the paradox, what I mean is that during difficult economic times or during times when a government has either decided or been forced to become more austere in its budget, there is a tendency to expect the third sector to pick up the bill for that. There are certainly areas in which they can and do very good work, and I think that has already been acknowledged, but the third sector - whether it is in health care or elsewhere just generally charitable work - also feels the pinch during tough economic times because there is less money around and people have less free time to go and volunteer for these services. They cannot afford to do charitable work because they need to do paid work to pay for the increase in taxation and the increase in the cost of living that is going on. Also the irony of the elderly population, there are going to be perhaps fewer people around to be able to take part in those health cares and there can be an over-reliance on the third sector, and they are not receiving the same level of donations from the public because there is not the money going around. So it can be a vicious circle and it is important to make sure that whatever models we have in place can be self-sufficient. Obviously we factor-in the areas that the third sector can do and I think it is quite appropriate that not too long ago - I think it was within the last 4 weeks - we did go to what I thought was a very informative presentation by Brighter Futures just across the road at Church House. It is quite clear that they take a very joined-up approach and they see things that we or even G.P.s will not necessarily pick up on, but they realise the importance of a joined-up approach. I hope that we would be able to meet their funding requirements so when they come to us and say: "We need more money" we should be saying: "Yes, you are doing a very good job" and we need to make sure that the current services of the third sector are being funded because we know it makes sense, in the long term it is investing to save. I was very pleased to see the prominence of mental health care in the White Paper. The Minister knows my feelings and we have had talks both informally and formally about ongoing health care issues and this is something which needs to be picked up. I think it is true that health care has generically across perhaps most of the western world, but certainly here in Jersey and perhaps in the U.K., often been a Cinderella of the health care because it is not understood, there is a stigma. I think it is important that is already addressed in the White Paper that the stigma which often goes with health care is addressed. There is also the issue I think of the overlaps because certainly what we have been looking at on the machinery of government is how can we improve or get away from the silo mentality that can exist in any organisation, because there are implications for Education. We know that Education - like Health - is one of the major and perhaps universally recognised areas which government has to have some input in, most people would recognise. Certainly in this part of the world we are particularly bad about learning about ourselves at school and from a young age we learn about the world, we learn about mathematics, science, but sometimes we do not learn about the psychology of how to interact with ourselves, how to minimise stress, things like that which can at a very basic level - irrespective of what one's professional area of life is - those things are key to understanding ourselves and taking better care of ourselves in the first place. The other thing I want to comment on - I think it is pertinent given this has quite a high and topical profile at the moment - is the other area I think of overlap is between the Home Affairs Department and the Health Department is that clearly there is a link, the better educated people are they will not get into making bad decisions, they will not end up in crime, they will not end up in a lifestyle of addiction, *et cetera*. But we also need to be looking

very seriously about the effects of harm when it comes to drug abuse and substance abuse, insofar as the 2 categories of substance abuse, which are pretty much very harmful, are legal so we know that cigarettes and alcohol are a big issue. There are other drugs out there which are less harmful which are illegal and so that poses all sorts of problems, including to the Health Department. There has been an interesting programme on, I am not sure if it is the BBC, about the effects of ecstasy on the body with the previous health adviser for the Government, which is Professor Nutt, and they have been doing some very interesting tests on ecstasy. It is interesting that most of the recorded cases of difficulties or the very occasional fatalities are not to do with the drug itself but to do with the fact that it has been cut with all sorts of other pernicious substances. We really do need to have an open, mature, and intelligent debate about the way that we deal with these substances in our community because it seems to me we recognise the fact that cigarettes and alcohol are bad for people, we of course love to take the duty from that, and we have seen an increase in the duty being proposed for cigarettes but we have not yet had a joined-up approach to dealing with cigarettes and alcohol, we do not even have a proper alcohol and cigarettes strategy in Jersey, let alone the other substances which I have spoken about. So I do think we as a Government are in the position of sending out mixed messages here and I think that is going to be a recurring theme when it comes to the budget. What are we really doing here, are we happy just to take the money from these things? I just lay those on the table, those are things which perhaps need to be brought back in the future, and I hope that the departments will be working closer together in future because I think all of these areas are interlinked.

#### **7.3.7 The Connétable of St. Lawrence:**

I have been trying to catch your eye before you called Deputy Tadier, who has broached some of the issues I wanted to raise. Nevertheless, I am in the position of having served as an Assistant Minister at Health and also having served on the Health and Social Services Scrutiny Panel, so I feel I am privileged to have seen both sides of the work that has gone towards the proposal that we are discussing today. Part (a) of the proposition can without doubt, I am sure, be supported by everyone in the Assembly because to approve the redesign of health and social care services in Jersey there can be no doubt that is necessary. Indeed I was just making some notes as other people were speaking, about issues that I have discussed both during my stint at Health and also as a member of the Scrutiny Panel: infection prevention, recruitment and retention of staff, retirement of consultants, finding somewhere for a new hospital, do we need a new hospital, improvements for Overdale, St. Saviour's Hospital, Sandybrook, and most other health properties, care of the elderly, care of carers, end of life strategy, mental health provision, primary care, children's services, and other issues as well. We know that these have been discussed and debated for many, many years, certainly before I was at Health and I have to thank everybody who has been involved in bringing this paper forward. One word of caution from my part, while these are laudable, while they are needed, I ask one question: what cost Health? Because without doubt although we recognise that we do need these improved services, they are going to have a cost. The financial implication referred to in this proposition is on page 86 and we learn there that the Council of Ministers have told us - because they have presented this paper - that no increase in charges or taxes are envisaged in phase 1. Indeed part (b) I think at section 3 requires the Council of Ministers to bring forward proposals for a sustainable funding mechanism by the end of 2014. My word of caution is that although we do need to deliver - without doubt we need to deliver - that delivery will cost. The problem for future Assemblies will be balancing the cost of delivery against the provision and while I am fully supportive of this proposition I just want Members to consider that because the implications for all of us, tax wise, I do not think we have even begun to consider.

#### **7.3.8 Deputy J.A. Hilton:**

The Health White Paper proposes a 10-year programme of change in 5 key areas: services for children, services to encourage healthy lifestyles, services for adults, mental health issues, and also services for older adults. I just wanted to speak briefly to each of those. The lead outline business cases focused on alcohol issues, some Islanders drink to excess, an average of 25 units per week for every person over 16 years of age. These are frightening statistics when you consider the majority of Islanders drink at safe levels. The Jersey Annual Social Survey reports that 11,000 people approximately would meet the criteria for an intervention to reduce their alcohol consumption. Best practice indicates 20 per cent of dependent drinkers should be using alcohol services. Currently Jersey has 7 per cent of its drinkers accessing services. Health are proposing an early intervention strategy in order to address alcohol related problems a lot sooner for our individuals in our community. This could be achieved with greater use of media campaigns, screening provided through our G.P.s to identify earlier those most at risk, referrals to specialist services, and non-hospital detoxification and relapse prevention methods will be put in place. Members will be aware of the very public fall-out between the Health Department and Silkworth Lodge, who provide alcohol and drug rehab programmes to the people of Jersey via a service level agreement between the 2 parties. The Scrutiny Panel were disappointed to hear the relationship between Health and Silkworth Lodge had deteriorated to the point where communication was problematic. It cannot be stressed highly enough, 2-way communication is essential between the Health Department and third sector organisations if the States of Jersey is committed to transforming public health care services, to be delivered in a community setting with full involvement from third sector organisations. It would be helpful if the Minister could give an update on the state of the current relationship between her department and Silkworth Lodge. One of the threads of the White Paper is to introduce early intervention services for children, which is very close to my heart. One area of concern is the number of children visiting A. and E. (Accident and Emergency) with ailments which in the majority of cases would normally be treated by G.P.s. It is suggested a total of 1,200 to 1,400 visits to A. and E. could be dealt with in primary care. Parents may be using A. and E. because of the costs involved in visiting their G.P.s. Third sector respondents to the White Paper suggested improving access to primary care through a fixed number of free or subsidised G.P. visits, but the report is silent on how this might be achieved. It would be helpful if during her summing up the Minister can elaborate on this point. It is also anticipated there will be increased working between G.P.s and maternity services with more pregnant women being able to see midwives in their G.P. practice. Also it would be helpful again to know if there is going to be a charge for mums to be able to access this service. The White Paper proposals outlining improvements in services for children from pre-birth onwards should be supported. It does not take rocket science to predict that those children brought up in families where mental illness, domestic violence, drink, drug and other related issues figure in the family dynamics are at an enormous disadvantage to their peer group who have the benefit of loving, supportive parents, unhindered by some of the issues mentioned.

[16:15]

In Jersey some families experience a cycle of disadvantage which needs to be broken if children are to grow up as valid, productive members of our community. We believe this has gone on for far too long and welcome all the measures that are proposed by Health, which include improved access to primary care for the under-5s, increased community midwifery, additional financial support for fostering services, and enhanced respite services, which is warmly welcomed by the Scrutiny Panel, which reflected some of the issues raised by us in our previous scrutiny report earlier this year. One area of concern to us was a potential duplication of services concerning the third sector. Brighter Futures, for example, is an organisation that was set up specifically to assist families, parents and children, to a brighter future. The health proposition proposes a 2-year programme to provide integrated support across care settings and organisations. We do not question the

importance of early intervention during pregnancy and after, but what concerned us was the fact that Brighter Futures are already playing a big part in our community by supporting mums to be, parents and children, in the support systems that wrap around the entire family. Brighter Futures reported that, and I quote: "Research shows that a high level of learning takes place when individuals work alongside their peers and a key measure for us is when we see parents helping other parents." The model proposed by Health appears not to include peer-group involvement. It is no good throwing support at vulnerable children if we do not address the issues of the parent, which makes the child vulnerable. We believe the service provided by Brighter Futures could be enhanced and supported in a greater way by the Health and Social Services Department in order they can reach out and assist a greater number of parents and their children. Brighter Futures, in evidence to the Scrutiny Panel, mentioned at no time during the consultation process were they given the opportunity to provide evidence of the work they undertook or were asked to submit evidence of their successes. They went on to say, and I quote: "They have been told they can tender for contracts to provide services, but as these programmes have already been decided upon by Health it is difficult to see how this will happen." It is the panel's intention to scrutinise the full business cases as they are worked up and we fervently hope the Minister will accept our recommendation 15, which calls for the Health and Social Services Department, in partnership with the third sector and other organisations, agree how specific services are to be managed to deliver efficiency improvements. Encouragingly, according to the Green Paper consultation, 90 per cent of Islanders agree that mental health is as important as physical health. Improving access to psychological therapies is a most welcome and needed workstream of the Health and Social Services Department's proposals. The proposal at the outset is to make talking therapies more available to those people who need them in non-stigmatising environments and locations. The outline business case refers to, I quote: "Delivering person-centred services in safe, appropriate and flexible environments." It would be helpful, in her summing-up, if the Minister for Health and Social Services could possibly outline in a bit more detail where this service will be delivered in the community, apart from G.P. surgeries. I was shocked to read of the lengthy waiting times currently being experienced by individuals in need of help, which was a 2-month waiting list prior to assessment and over 3 months following assessment. Although I recognise those people experiencing serious mental distress can be seen pretty quickly, it is not much help to others with less serious problems who have had to wait such a long period of time before they receive the help they need. Third sector organisations such as Mind Jersey will have a pivotal role to play in delivering some of the community-based services. In their submission to the Scrutiny Panel, Mind Jersey endorses the outline premise of the White Paper that services need to be redesigned and modernised in order to continue to provide high-quality cost-effective services as the Island's population ages. Mind Jersey also say, and I quote: "There remains a very strong feeling that a lack of investment made in health and social care services overall during the last decade has been most acute within the mental health, often and quite rightly described as the Cinderella service." They go on to confirm they believe they are well placed to deliver some of the services as outlined in the proposition and in conclusion Mind Jersey are grateful that recognition about improving the way in which adult mental health services are delivered is a high priority. We are an ageing society, a fact we cannot escape, and Jersey, like a majority of jurisdictions, are facing very similar problems. Over-65s are due to rise by a projected 95 per cent over the period 2010 to 2040. This brings massive challenges, which need to be faced head-on if we are to provide services that will match the needs of the people in Jersey in a cost-effective way. The Health and Social Services Department have identified specific challenges, which arise from an ageing population, including: chronic obstructive pulmonary disease; coronary heart disease; diabetes; and dementia, all conditions associated with an ageing population. Health's vision for integrated community services to provide 24-hour support in a range of settings is a commendable one - but, and there is a but - the funding required to achieve this and the other outline business cases will be enormous, and a big

concern for the Scrutiny Panel is the level of ongoing funding and staffing required in order to deliver these services, not just in the first phase of the 3 years, but for the following 6 years also. Services for older adults is a series of bids for a range of services directed at the older members of our community, including mental health, long-term conditions, intermediate care, and end-of-life care. The total sum of the bid is approximately £17 million over the 3 years. Essentially, they are bids to move aspects of chronic disease management out into the community. Jersey would seem to be following best practice adopted in many parts of Europe, U.S.A. and Canada by developing community-based programmes to improve the management of long-term conditions such as C.O.P.D. (chronic obstructive pulmonary disease). For example, the plan to increase screening programmes targeted at those individuals most likely to develop this condition, and others, is one that should be supported. It is encouraging to see, as outlined in the outline business case, that the Health and Social Services Department intend to enter into a service level agreement with primary health, which would provide payment to G.P.s for the initial diagnosis and for specified care delivered during an agreed number of consultations. It is intended that this care would be free to patients. Again, it would be expected the third sector will play a vital role in providing peer support and direct services for patients with respiratory conditions. Intermediate care, carer support, enhanced community services, an active ageing and wellbeing centre, all different components of delivering care in the community, but we must not forget that, without the involvement of the third sector and other organisations, this will simply not work. As Family Nursing say in their submission to the Scrutiny Panel: "There is much discussion about partnership working. Partnership working is based on trust, shared vision, mutual respect and collaboration." For some areas this will require something of a cultural shift in working practices and mindset to achieve some very innovative ways of working. There needs to be built into any change development, a strategy to maintain existing good relationships and plan strategies to overcome any potential barriers to patients receiving the right care in the right place at the right time. It is apparent from the majority of written submissions received at the Scrutiny Panel there is overall general support from the third sector and other organisations for a new way forward. It is my intention to support the proposition. Thank you. **[Approbation]**

### **7.3.9 Deputy G.P. Southern:**

This is one of those propositions that the entire Assembly, I am sure, will find itself capable of voting for. Before they do so, I would like just briefly to point out a few of the difficulties on the way. Of course the principles and the aims are absolutely correct. But let us examine for a while what is happening on the mainland. There we have had an increased emphasis too on engagement with the voluntary or charitable sector - what we call the third sector - in delivering services in the community. However, we have just heard that Brighter Futures was invited to tender for contracts and only 2 years ago Brighter Futures did not know in December what budget it was going to get from the Health and Social Services Department in January. That sort of short-termism and that sort of short-term contract must be a thing of the past. When we engage with the voluntary and charitable sector, we must be able to give them some commitment for at least 3-year funding that allows them to see a project through, to be confident that the year after, and the year after that, they will still be able to deliver and will not be scrambling around for funding at short notice. So that has to be part of the delivery package. But look what is happening in the U.K., where charities and the voluntary sector have been invited to tender for contracts and they found themselves largely elbowed out of the way by the third-sector service deliverers, the for-profit service deliverers like Virgin, Serco, Atos and Capita. Already privatisation of what is a national health service in the U.K., which is happening both surreptitiously and very openly, so that... **[Laughter]** That one slipped out. So that services, large parts of the health service in the U.K., are being taken over by the private sector, where quality is not necessarily the prime aim. There are already questions being asked about the quality of delivery that is taking place in those community services. I would

also like to reinforce the message that came from the Constable of St. Lawrence when she said these aims and targets are all very well, and the principles are all very well, but they will cost. I come back again, we have traditionally been a low-tax, low-spend economy. We heard only yesterday how the Minister for Treasury and Resources is by and large unable to squeeze any more taxes or charges out of the non-finance sector. There is no more money in that particular pot. So while, for stage one, we are told there are no new taxes required, stage 2 there will be a cost and we will have to accept the fact that the model we have been using, low tax, low spend, will have to change. That burden will come down to individual, private income-tax paying or other. So we must be prepared to bite the bullet and be prepared to pay more. There will be further charges; there will be further taxes; that is inevitable in order to pay for these sorts of services. Then finally, penultimately, I will make one point about - as many have already said - already I believe we are having problems with access to G.P.s. We need a major rethink about how we provide those services through G.P.s that do not prevent people going to the doctor when they fall ill; they do not have to worry about the cost of falling ill. We keep getting promises that something will be done, but it has been a while now and it is being done, I am told, I read lips from here; the Chief Minister says it is being done. We have not seen hide nor hair of it yet. We do not have a new mechanism for giving people proper access to G.P.s, I do not believe, and unless we do we are going to find ourselves in trouble. The ultimate point then, I remind Members again, this whole package depends on recruitment and retention of the professionals in the business, and at the moment I see again no sign in any of the documentation coming through, in this document or in the Medium-Term Financial Plan, that we have sorted that out. We seem to have fiddled around the edges and we have crossed our fingers and we hope that somehow, over the next 3, 4, 5 years, that problem of chronic shortage in this Island of the right level of skills being recruited and retained, is simply not there; it is not there yet. That will be one of the major costs that we need to address in order to fund these sorts of changes. Having said that, of course the principles and the aims remain valid and nobody in their right minds would vote against this one.

[16:30]

### **7.3.10 Senator F. du H. Le Gresley:**

I just wanted to pick up on a couple of points that have come through from Members' speeches thus far, which particularly affect my area at Social Security, and they are, in no particular order, as they would say on some shows, the G.P. Central Server project; the Health Insurance Fund; and long-term care benefit, all of which, for my sins, are my responsibility. I think it was the Deputy of St. Peter who, in her excellent speech, made comment that there seemed to be a lack of joined-up information database for G.P.s, which would be shared hopefully with Health and Social Services at some time in the future. If you will forgive me, I will have to read some of this, because fortunately I had this in the bag, as they say, because I thought this might come up. But I did ask my officers to give me an update on the G.P. Central Server project which is something that was started about a year ago. For the benefit of some Members who perhaps were not in the Assembly when proposition P.36/2010 was approved by the States, I will just explain to you what was in P.36/2010. P.36/2010 laid out high-level plans for introducing improved governance of medical general practices in Jersey, including the introduction of payments dependent upon performance and against a set of clinical and organisational quality standards known as the Jersey Quality Improvement Framework. The report also acknowledged the requirement for a new system, a central repository of patient records that would provide the necessary data. The advantages of the system should include: providing the basis for gauging whether performance standards have been met; compiling health records and disease registers at a single location; providing robust data to guide the future development of health strategy and policy; allow patient records to be accessed electronically by the G.P. Out-of-Hours Co-operative, which operates from the General Hospital, and therefore delivering a significant improvement in the quality of care that can be delivered by

the G.P. Out-of-Hours Co-operative. It is anticipated that the system would be integrated with a new Health and Social Services computer system and that the new primary care governance team, who are now in post, and the implementation of the new system, would be funded from the Health Insurance Fund. P.136/2011 further modified the Health Insurance Law to promote the registration of patients with a primary G.P. practice and allow the Minister to enter into contracts with the G.P.s for primary care services. So a lot has been going on in the background through my department and working with Health and Social Services and the G.P.s to set up this central server, which is expected to go live from 1st January 2013 with G.P.s' surgeries joining the system during the first quarter of 2013. So that is where we are with the G.P. Central Server project. The Health Insurance Fund (H.I.F.); I have never been so popular as when I go into meetings at Health and Social Services because I have the pot of money they would all like to get hold of. So I get warm looks when I open up and say I might consider releasing some money from the Health Insurance Fund. But the reality is we cannot keep tapping the same source of money. At the last count, and hopefully with the very wise investments that the Common Investment Fund is making for our pot of money, we have in the region of £80 million in the H.I.F. However, the Medium-Term Financial Plan, which we will be debating at the next sitting, will propose to remove a further £14 million over the next 3 years, leaving, by my estimates, and those of my department, somewhere in the region of £54 million in the fund, because of course we have not finished completing the transfers already approved. That is the equivalent, for the current services that are paid out of the fund, of about 13 months' expenditure. That is only the services we currently provide; that is the G.P. co-payments; that is blood tests; that is the pharmacy drugs and the dispensing charges. If we want to add a lot more services that will be funded out of the Health Insurance Fund that money will run out, be absolutely assured that money will run out very quickly. So those Members who are saying quite rightly: "Where is the funding for all this going to come from?" as we know at the moment, the Health Insurance Fund is funded from contributions from employers and employees and that is equivalent to 2 per cent. Quite clearly, that will not be sustainable if we want to have all these extra services, and there is no problem with having these services, but they will have to be paid out of something. The Scrutiny Panel in their report, and I quote from their report, said: "In this context, it must be remembered that, while outline business cases for the period to 2015 are funded through the M.T.F.P., the H.I.F. will have contributed £26 million by 2015 to the funding of Health and Social Services." They are absolutely right; we will be helping to support, quite rightly, the current services that the Health and Social Services Department provide. That is exactly why the proposition from the Council of Ministers says that the whole issue of funding has to be resolved by the end of 2014. The H.I.F. will not be able to sustain the demands on it that we might expect out of a lot of these outline business cases, particularly the one that suggests that all under-5s should have free consultations with a G.P.; I am quite keen that should happen, but there is a cost to all these things, and Members need to understand that, when we come forward with our funding proposals it is almost certain, if we are going to use the Health Insurance Fund as the basis of funding health care in this Island, particularly primary care, those contributions will have to go up. There is absolutely no doubt on that and that is something we must take into consideration and be prepared to accept. A number of Members, but in particular the Deputy of St. Ouen, quite reasonably perhaps in his opinion, have mentioned the long-term care benefit and the delay. I have appeared before the Health, Social Security & Housing Scrutiny Panel on a number of occasions and I have been asked about long-term care benefit and the reason for the delay. I thank Deputy Green for explaining why perhaps there have been delays. I am not prepared to bring forward proposals for this fund until I am satisfied we have a robust system of collecting contributions, a fair system that does not penalise low-income earners, does not damage our economy at the same time, and that provides a reasonable amount of payments to people who are currently in care who will be the first beneficiaries, and those who sadly in the future may need care provision. The first beneficiaries of this new long-term care benefit, which I anticipate will be July 2014, will have not



paid any money into the new fund. We have to remember, we are starting a new benefit with no money, not one penny. So those people who are advocating that the Minister for Social Security is dragging his heels must remember we do not have a pot of gold sitting there waiting to pay for residential care. The only money that we are spending at the moment for residential care is coming out of my income support budget where last year we spent in the region of £17 million on about 550 Jersey residents. So we do not have the money for the fund; we will need to collect at least 6 months' contributions before we really have sufficient money to start making payments. So when I hear cries of: "But it is not fair on those currently in care", I do understand that, but the fact is they will benefit and they will not have put any money in this new fund. The relevance of the long-term care benefit is particularly pertinent to this particular proposition we are debating today, because it is about more care in the community. It is about removing some of the services, currently offered in the hospital, out in the community and people being able to support themselves in their own homes. That is exactly what long-term care benefits will do, and not just for the elderly, but for people who perhaps at a very young age have a stroke, or whatever may happen to somebody in an accident, will be wanting to be looked after in their own home by their family. That is exactly what our new long-term care benefit will provide assistance for, designed care packages to enable people to have care in their own homes paid for out of this new benefit. So, yes, it is taking a long time to get there; no, I am not complacent; yes, we are working at it; yes, we must support the Minister for Health and Social Services today; yes, we need a new way forward. Please support wholeheartedly our Minister for Health and Social Services. Thank you.

### **7.3.11 The Deputy of St. Ouen:**

First of all, I am grateful for the Minister for Social Security's comments and some of the challenges regarding future funding that he has highlighted, because I think that we all have to be mindful about this as we start to move towards this new model of care. I am also perhaps pleased that he raises the issue of the long-term care funding and highlights the fact that, even though - and I know he was not a Minister at the time - the Minister for Social Security at the time and his department brought forward a proposition, which fully supported and substantiated and evidenced that this long-term care plan should be introduced, and the States ultimately supported it, we find that it is not fit for purpose. There is a message for us all. How are we going to make sure and be certain that when we do come to consider the funding mechanisms that they are what the States believe them to be and that they can be relied upon, because we cannot find ourselves in a situation where this Assembly, or another, determines and supports a particular programme and the funding that goes with it, only to find that a year later the new Minister then says: "It is not fit for purpose." First I would like to pick up on something else that perhaps we have not touched on yet, it is to do with the implications of this particular report and proposition. I think the panel would agree with me that they have no doubt that the public would like to access a new hospital funded to provide the latest equipment and best-trained staff. They would also choose to have a co-ordinated system of primary care, community health and social services integrated with other States departments and key stakeholders. However, there is a fundamental issue underpinning all of these considerations and it is about cost and affordability. Do Islanders want a comprehensive high-quality health and social services and yet maintain current levels of taxation? If so, are they prepared to give up other services? If not, how do they propose to fund the additional health and social care services with a population structure that will continue to change over time? Whether such a service is affordable is clearly a matter of political choice; however the States and the public must be better informed about all the costs of the option now being presented before final decisions are made. I would just like to remind States Members, and I know 16 of whom were not here, but there was a large public consultation not that long ago, back in 2007 or 2008, called Imagine Jersey, and it was based around determining population policy.

[16:45]

The public were really encouraged to get involved and detailed information was provided to support a range of different scenarios around population growth on a per annum basis. One of the models, which showed, if there was an increase of 750 or 800 people per annum, it would require a new hospital. There is no doubt. However, other models with lesser increases in population indicated that was not the case. It is worth, Members, if you have a chance, going back and looking at some of that information that supported that consultation because it is still meaningful today and it can still be relied upon. The reality is that in that, and during that consultation period, and there is an outcome, the public said no to large increases in population; they said: "Limit overall population levels to 100,000." They said they were prepared to pay increases in taxation within the parameters that were set and featured around those numbers. The reality is that, although the States paid attention to the public and indeed introduced additional taxation measures, the States did not pay attention to the decisions around population growth. We now find ourselves, 5 years later, with the situation that we are nearly at 100,000 people, and some of the issues that were raised around that level of population and above are coming true. We are now faced with the decisions around spending - and I will highlight this - over £400 million on a new hospital. That is without dealing with the respite care issues that we know exist, without providing the other facilities and community facilities that are linked to this proposition, intermediate step-up and step-down facilities, wellbeing centres, and a range of other matters. It is without recognising that, not only do we have that cost, but we have the ongoing cost of making sure that we have the staff that are able to provide the services within those buildings to support our population. So we have some significant decisions and issues to deal with but we cannot ignore the public. If we are going to ask them their view then (1) we need to pay attention to it and (2) we need to act upon it rather than ignore it, because now quite rightly, and I am not blaming the Minister for Health and Social Services, or indeed the Council of Ministers, but we are faced with a situation where there is no doubt that taxation in some shape or form, or charges across the working population and retired population, will have to be introduced to simply fund this, because there is no spare money to do otherwise. I do support the general direction that is being proposed but I cannot give any further and more concrete guarantees at this minute that I will be able to continue until I have the appropriate information that both I and the public can use to fully sign up to this proposal. Thank you.

### **7.3.12 Senator I.J. Gorst:**

It is always a pleasure to follow my Deputy. Perhaps I should phone and write to him more as a parishioner, but there we are. I believe it is probably still grey and probably drizzly and perhaps even foggy outside of this place. It can only be described as a rather dull autumnal late-October day, uneventful and unremarkable. The truth is absolutely the reverse. We have been tottering along, barely quorate, for the afternoon and we are getting to what I hope is towards the end of this sitting. Despite all this, today is a remarkable day. Today is a day of significant importance. It is probably about a year that this Assembly has been elected to office, I am not sure whether I have forgotten exactly the day because it was such one I wished to scrub from my memory or we have just been so busy with other things, but it is generally about a year. Sometimes Members can feel as though they are not necessarily achieving anything and certainly can feel as though they are not achieving things quickly enough. I am proud to be associated with this Council of Ministers; I am proud to be associated with this Assembly, because for the last year and the last number of months before that, this Minister for Health and Social Services has quietly been getting on with transforming her department and bringing forward proposals for change. To some extent today we have before us the culmination of many hundreds of hours of work and a step into, not just talking about, not just consulting about, not just developing policy, but starting to put it into action. So, not only has she been quietly getting on with that work, but day after day doctors, nurses and - dare I say it - managers in the Health Department and in the Social Services Department have been

quietly, effectively and efficiently serving the health needs of this community. My Deputy said that it was a result of the increased population levels that were driving the need for the new hospital, or that was his inference. I believe he has probably been and visited the existing hospital and, as his colleagues on the panel said, and as other speakers have said, it is not that, it is that the hospital as we now know it needs to be renewed and refreshed and brought up to modern-day standards. So other Members have spoken about working with the third sector and the commissioning of services. I know that the Health and Social Services Department is committed to getting that right. I would suggest that any Member that still doubts that, perhaps they should meet with the commissioning person at the hospital, who I am very impressed with and has spoken about a concept of relational commissioning, not necessarily the old-fashioned service level agreements that we have been used to, but working with that provider to ensure that the best service is provided and acknowledging that we in Government do not always know what that best service is, but working with those providers to ensure that the best service is provided in a cost-effective manner. I am not one of those politicians who believes or is concerned that using the third sector is trying to cut cost; I believe that we should be using the third sector because they know best what the need of their particular group that they work with is, and we should be supporting them if we can financially and asking them to deliver services because they can do it in their area of expertise better than we can. So I believe that is being addressed and it will continue to be addressed. Other Members have spoken about the detail, which is still to come, and they are absolutely right. The departments have been working on outline business cases and they are going to go on after today and I hope the money that we will vote for it in the M.T.F.P. and do full cases. I am absolutely delighted that the Scrutiny Panel are going to continue their good work and help and scrutinise those full business cases and be involved in ensuring that, yes, they are fit for purpose and, yes, they are going to deliver what we all believe are the services that are going to be delivered. Other Members have talked about third-sector organisations needing certainty over a period of time with regard to their funding and the point is very well made. That is the whole point and the whole purpose of the Medium-Term Financial Plan; that will give certainty, if we accept it as it stands, to those third-sector organisations. I do not believe that the Health Department has already made up their mind; there have been some indications this afternoon that some Members believe that; that is not the case. They are open and they will try to ensure that the service is delivered in the best and most cost-effective way and they will certainly take into account where services are already being delivered in our community. I know from my conversations with them, that that is the approach that they are taking. I will try not to be put off by the Senator shaking her head in front of me. A number of Members have spoken about cost and they are absolutely right to acknowledge that this White Paper will bring increased cost. But the Council of Ministers are going into this process with their eyes open. We believe it is the right thing to do. We believe in providing the very best health service that we can for our community. That will have a cost and it is right that we acknowledge that and it is right that we in due course will count that cost. I am sure the Minister for Treasury and Resources will talk more about this in a few moments, the Treasury, we are very grateful to them, because they have managed to fund the programme for the next few years out of existing budget and they have committed to, in that period, bring forward a co-ordinated new method of funding and that we will need to consider the appropriateness of co-payments, the use of the Health Insurance Fund, and any other necessary charges or contributions. But let us not say that is a reason not to accept this proposition today, because it is not the case, we should be providing that health care and we should be counting the cost. I believe that by accepting and approving this proposition today, this Assembly can be proud of its achievements. Reforming and transforming Health and Social Services was one of the 7 priorities of the Strategic Plan that we approved but a few months ago. There are others to come but today we are making a very important step from talking, from policy development, into delivering, and that is very important. The Deputy of St. Peter, in her summing-up speech, said that she was passionate about health. Senator Routier said

he was passionate about social care. I believe that by approving and accepting this proposition today every Member of this Assembly can show that they are passionate about health; that they are passionate about social care and improving the provision of both in this community and can be proud, and will be able to go home this evening - if we get completed, I hope we do - knowing that they today have made a difference. There are not many days when politicians go home with that sense of achievement and I hope that each Member will vote to approve this and will be able to go home knowing that they have made a change and that they have done the right thing for every member of this community in which we are honoured and proud to serve. Thank you.

**[Approbation]**

[17:00]

### **7.3.13 Deputy G.C.L. Baudains:**

I have to say, if our recent buildings are anything to go by, a new hospital, if indeed we build it, will probably need replacing in about 25 years' time anyway. One does wonder, if today's technology is that much better than the older buildings, which outlive them by perhaps a factor of 10. Just one reason why I have a difficulty with part of this proposition, namely part (b)(i), the intention to build a new hospital, where it states: "Ministers to bring forward for approval detailed plans for new hospital and either on a new site or rebuilt", *et cetera*. I want to make it clear, I fully support the changes to primary health care, it is long overdue and will not only benefit the health of Islanders but it should take some pressure off the hospital itself. It has been suggested to me by members of the medical profession that perhaps we are going down the wrong path. We are trying to accommodate a hospital that might be better suited to a large city, but funded by 100,000 people, it probably does not work. I wonder if sufficient consideration has been given to other options such as working with larger hospitals maybe in Southampton or perhaps in France. As I said, I fully appreciate putting more emphasis and energy into a new model of primary care is vital. In fact, if I may quote the words of one G.P., he states: "General practice could take on much more of what the hospital does and do it more cheaply", and he goes on to say he could talk about that at length; so presumably he has a fairly good understanding of it. But what I am having great difficulty with is, not the fact that the present hospital needs refurbishment and upgrading, I fully appreciate that, but spending hundreds of millions, as Senator Ferguson said, nearly almost half a billion pounds on something that may not ultimately be in Jersey's best interest. So, in my view, I am coming to the conclusion this is not so much a new way forward but rather the wrong way. So, in conclusion, with an efficient and appropriate primary health care, our hospital should in fact require less and not more, even taking into account demographics and the progress of medicine where illnesses that could not be treated previously now can be. So what I am hoping for is, when we come to vote on this proposition, that it is split so that I can support the parts I am comfortable with; I cannot support part (b)(i).

### **7.3.14 Senator P.F.C. Ozouf:**

There has been much said and much written and much spoken about this debate, and this debate is the culmination, as the Chief Minister has said, of a great deal of work, 3 years of work in fact by the Ministerial Oversight Group. There has been, behind some closed doors, which some Member of this Assembly, and certainly members of the public will not have seen. There has been the work on the Green Paper, numerous hours of discussion about economic models, about the cost of health care that we are already incurring in Jersey and comparing that with other jurisdictions. All the work that was in the Green Paper, each chapter taken section by section by the Ministerial Oversight Group. As the Chief Minister and others have said, there has been much work done by external consultants, the external consultancy that was used in order to build the bailiwick model to get, for the first time, some decent metrics in relation to what the healthcare requirements, how many hip operations, all the sorts of data that you need to make confident decisions about planning.

There has been staff engagement; there was a fantastic event with health professionals from G.P.s to voluntary and charitable members, as one espoused, they are now called the third sector representatives, from healthcare professionals, *et cetera*. Many people were engaged. When the Minister for Health and Social Services stood for her office, I said to her that I believed that she was going to be the most reforming Minister for Health and Social Services that there had been in a generation, and I did say that, and she knows it, and I think that today this is part way of that happening. She has made a great difference working with colleagues in relation to changing health care, and she has also led her team and I think that she is to be warmly congratulated.

**[Approbation]** This is a radical reforming, modernising report. It is also a tremendously tough strategy, which is going to take a lot more hard work. Since almost this is even the start of the new beginning, and people are going to have high expectations that things are going to change in our health service quickly. Some things are going to change as a result of the decisions in the M.T.F.P. but others are going to take some time. We are behind in terms of the standards of healthcare service that we have in Jersey, but that is an opportunity, we have the opportunity of perhaps leaping ahead of the rest, learning from the things that have gone well and not so well in other places, and we can put in place really a healthcare service that our community can have confidence in; that can deliver value for money; but most importantly can look after people in the difficult, in the challenging times of their lives. I am optimistic that we can build a healthcare service that everybody can be proud of. Before addressing the financial matters, just very briefly, there are 2 things that I would also like to say. I do think that there is a real opportunity to work more closely with Guernsey. I was with my counterpart in Guernsey with my Assistant Minister last week and we identified, as the Treasuries of Jersey and Guernsey, areas where there were probably more opportunities for departments to be working together. There is good working between Health and Social Services and Guernsey but there is probably more to be done and we need to encourage there. Where there is an opportunity of pooling resources in a way that Deputy Baudains just spoke about effectively getting outside, taking people to the best centres of excellence. Clearly we are 2 tiny Islands and there could be opportunities in relation to working even more closely together in future. Perhaps there can be a Channel Island Health Authority of the future, commissioning outside care, commissioning with hospitals, negotiating with hospitals together, procuring together. These are real opportunities to work in together. The Minister for Home Affairs also spoke about the need of setting up a non-executive board and this is something that G.P.s have focused on, and I understand why. Governance and good structures are vital to deliver. In the M.T.F.P. debate next week we are going to be speaking about setting budgets. Good financial control and getting good value for money and getting good decisions is not just about setting budgets; it is about having the right structures in place. Health is a multi-million pound organisation, more than £100 million just to run the hospital, or the hospitals as they currently exist, as they are. Previously, there was just a chief executive responsible for running the hospital and policy and governance and all these other issues, reporting to a Minister. Frankly that did not work. We needed to reorganise the management structure so that there was a hospital director that was absolutely clearly responsible. Yes, the chief officer is ultimately responsible, but there was somebody responsible for managing the hospital. We have seen what a dedicated management, and I say the word “management”, having dedicated management in place in order to run delivery is important. That has made a difference because the chief officer has been able to concentrate on the policy side. While ultimate accountability will be, as I have said, with the chief officer and the Minister, one of the reasons why we are here today is that there has been also the benefit of a Ministerial Oversight Group; that has been shared responsibility, almost the creation of, dare I say it, a committee. There has been a Committee for Health that has been working. The responsibility with the Minister for Health and Social Services, but there has been a Committee of Ministers, a sub-committee working on these issues. That has improved the accountability. Moving ahead, I think that there is probably the case for the appointment of some sort of either non-executive directors or non-executive boards to help

the Health and Social Services Department. Chief officers need to be held to account, but while they do need to be held to account, sometimes it is a lot easier by people that know what they are talking about, who have that relevant experience. The U.K. now has a system of permanent departmental boards, Ministerial boards, with one or 2 non-executive directors sitting on that Ministerial oversight board with responsibility, not for policy, not for politics, but for delivery. Lord Brown oversees and acts as the senior non-executive director and matches almost permanent secretaries and individuals to ensure that there is that spark, that there is that creative tension. I think that Health, with the vast budgets that are being allocated in our system, could benefit from that. So I think there is merit in the setting up of a departmental structure. You do not want lots of boards, you do not want a board for this and a board for that, you want a clear system of accountability. But I think, because of the scale of the resources, and not for all departments, Health must and would benefit from this. This debate was supposed to be a precursor to the M.T.F.P. debate. One of the reasons why this debate was sequenced in the way it was before the M.T.F.P. debate was because, in that M.T.F.P. debate, there was effectively a huge allocation of resources to Health. The M.T.F.P. is about health; that is about the increase of health funding, and we knew that the States would find it difficult to agree funding out with the agreement of a policy. That is one reason why the debates are happening and it is interesting that we are now having a difficulty with the housing implementation that people do not want to allocate money without the policy. But here we have a policy, and if I look across to the Assembly and look at the Minister for Health and Social Services, I think through the Chair, it is approaching 5.30 p.m. and I am not sure that any other amendments are now possible to the M.T.F.P. so I think the Minister may be in a fair chance of potentially getting that funding in the M.T.F.P. but I never take this Assembly for granted and we will have that debate on funding in a couple of weeks' time. But certainly I hope that we will get not only this approved but the health funding, because that health funding is going to revolutionise people's lives, it is going to make a real difference to some of the really difficult issues that people have in mental health services, and we have seen some of the difficulty that mental health services, which has been almost the Cinderella service. Dementia care, we have made a real difference in terms of looking after people with Alzheimer's and we can make a real difference to many other people's lives in the money and in the cash that we do it. Sometimes people wonder why I speak about economic growth. I care about economic growth because it provides the resources to be able to fund services and we are going to be able to fund services in the M.T.F.P. Yes, there are some very substantial challenges going forward in relation to health funding. We are fully funded for the next 3 years and I do warn the Minister for Health and Social Services and her department, and anybody else involved in health matters, is that the M.T.F.P. was the time to ask for money for the next 3 years and that is it. It has to be it and they are going to have to live within those budgets for the next 3 years. But we do have to do more, we now have to start planning for the next phase, because the next phase is going to require a further increase in revenue expenditure. One of the reasons why Treasury supports this plan is because, if we do not put the money in now, the bill is going to end up being a lot greater, and we need to start reforming health and social services so we do not end up with uncontrolled healthcare spending; that we do not literally have, in a bad winter flu epidemic; we do not have elderly people on trolleys in corridors because they cannot effectively get into hospital, which is a real risk. That has nothing to do with the increased population; that is due to the reality of the demographics that we find in our Island. So this is about delivering best value. Some people have asked me, if we are wrong in our projections in our economic growth assessments, would we not be making these investments in health? We just have to, otherwise the costs are going to go up and also our community needs it. There are issues about the Health Insurance Fund, how we are going to fund that second increase in health care that is going to be required in phase 2, and there are going to be some difficult trade-offs that are going to have to be required in terms of some co-payments. There is going to have to be some cuts in areas to release money in other areas, within health as well. Health is going to have

to continue to look at ways of delivering some of their existing services with better value for money. There is a huge issue in relation to the rebuilding of the hospital. I am far from convinced yet that the bill is going to be £400 million. We are going to be the tough questioners of Health, and certainly there are issues, there is a proper segregation of duties that has to sit between effectively the Health Department and Property Holdings in relation to matters concerning property, and so that will be led by my Assistant Minister in relation to some of that site selection. We are going to have to pore over those figures in relation to be absolutely convinced, and yes it will be this Assembly that will ultimately make those decisions.

[17:15]

But I do say to Members, let us hope that we are going to get that economic growth; let us go and get that economic growth, because that is going to mitigate some of the additional costs that we are going to have to find in the future in relation to our healthcare services. I think enough has been said. **[Approbation]** I warmly support the Minister for Health and Social Services; I am pleased I am not doing her job, but I am pleased to have worked with her, together with colleagues, and I urge Members to support the proposition now, but also the M.T.F.P. allocations that, if Members what to be reminded of the substantial funding that we are talking about, just look at page 66 and 67 if they want to understand the financial consequences of approving these plans this afternoon.

### **7.3.15 The Connétable of St. Peter:**

Members will be delighted to notice that my 6-page speech is down to one, as it has already been said. **[Approbation]** I am only going to really comment on a couple of explanations that were embodied within my speech anyway, and the first item is really picking up from the Scrutiny interim report, which Members received by email yesterday. I would just like to cover that so Members understand the point it raises. In paragraph 3 it raised a difference from the previously quoted department cost of £300 million, which was a ballpark guesstimate given by KPMG back in 2010. Further to a competitive procurement process, WS Atkins, the highly experienced hospital planning consultants, were appointed in May this year to undertake the pre-feasibility spatial assessment project to identify the most appropriate location for General Hospital. A further element of their work was undertaken in conjunction with Currie and Brown, a local firm of quantity surveyors, to assess the Jersey cost elements at today's, that is 2012, projected cost range. The Jersey factor adds in the region of 40 per cent to the original 2010 costs, which is based on the U.K. 2010 bed cost of approximately £1 million per bed. Add to that your 40 per cent; brings it up to around £420 million. I would just like to explain some further comments here and my comments here were, if we were to put off the development of voluntary and community services, this would increase the cost of a new hospital by an additional £60 million to provide additional beds, plus £30 million per year to service that enlarged hospital. If you total that over 10 years, without inflation, that comes to £360 million if we decided, which I do not think we will, not to go down for this model today. £360 million is a low estimate for a whole new hospital. So that said, I will just quickly move on to a question raised by Deputy Hilton earlier on, she did not understand the need for 50 extra beds, given the 304 if we approve this today. Whatever we do today, when we move towards a new hospital, whether we rebuild on-site or we rebuild on a greenfield site, there will be a time lag of approximately 10 years. In the intervening 10 years, we are going to need more beds.

### **Deputy J.A. Hilton:**

I think that the Constable has misunderstood the question I was asking. I know that the plan is to build an intermediate unit of 50 beds because we are at full bed capacity at the moment in time. My question was, with the 245 beds we currently have in the hospital, plus the 50-bed unit that you are planning to build in the next few years, totals 295 beds, and in the report you talk about a new hospital providing 304 beds. My question was, that is only 9 additional beds.

### **The Connétable of St. Peter:**

Principally because the 50 interim beds do not need to be in the hospital, they can also be delivered by the third sector, and that is the aspiration we have. But we aim, with the demographic model that we have done for the next 10 years, that we will need, at the end of that 10-year period, a hospital, proving this today, with 304 beds, and the 50 is an interim, which may be in the hospital, may be delivered outside the hospital by the third sector. Thank you.

### **7.3.16 The Connétable of St. John:**

It is not often I have the opportunity of speaking after my colleagues. I have to raise one or 2 small issues, but I am not going to be a spoiler this afternoon, because I think we have to move forward. But I do have some concerns within the third sector and we are already starting to see issues like Family Nursing dropping by the wayside. I say this because I have had experience recently where I have had to contact Family Services and meet up with them, we did, and I was not very happy with the response I received. Anyway, I wrote to the C.E.O. (Chief Executive Officer) and asked for... firstly I checked on the internet to see what they offered their clientele, and they put very little on the internet about that, so I wrote and asked the C.E.O. for a copy of a pamphlet that their members get. What I received was a letter of invitation addressed to the Constable of St. John, although I wrote as a member of the public, to go and meet the C.E.O. So my response to that was, I would go and meet her, or them, once I had received the documents I had asked for. What came in the post of course was the 2011 Business Plan. I had not asked for that; I wanted to know what the public get when they pay their £100 or £50 annual subscription. I am still waiting for that. So I still have not met the person, until I get that document so I can look at it and go up there pre-armed. I just wonder what is going on. Then I find out through another channel that I am doing research on, on that, another area, that as of 2013 the sub falls away and it becomes a donation to the Family Nursing, and I thought: "Mm, that is different; there is revenue that we could have been having within the third sector, to the department, and that is being allowed to fall away, I wonder why." But still, not having received that original document I asked for, I am still waiting and hopefully once I get that then I will go and meet the people concerned. I also have some concerns, yet again in the third sector, we are seeing more and more of the practitioners, the doctors, they have moved to a night doctor, and then they have one or 2 covering the whole Island. Unfortunately, they do not know the patients they are going to see, where historically you would know your patients and generally you could probably treat them that evening and save having to send them to hospital. We are now seeing the third sector, by going down the road of having one or 2 of these doctors servicing the whole Island, they get there and to mitigate anything that might happen they put the person in hospital. That person turns up there with all his drugs, *et cetera*, and gets admitted, maybe for 2 or 3 days, and sometimes they are there for several weeks because they take them off whatever prescribed drugs they were on, and then they have to bring them back up again, so they are there for an extended period of time, when if the practice concerned, who look after these people, have the person's notes and they know what is wrong, that person could have been dealt with and they would have stayed in their own home. This tremendous expense that is picked up by the General Hospital by going down that road, you must look at that in a lot more detail, Minister. That said, there are a couple of other little areas that I must mention also, is the time wasted by patients who are being discharged from hospital. I have had a lot of experience in that area in the last few years obviously, firstly with my daughter and more recently with my own father in and out of hospital. The day they are released they are told: "You are going home today." They could have released that bed early morning but you have to wait for a prescription to come up from the chemist downstairs, and only yesterday we had it happen to us when my father was released from hospital yet again, we were told, yes, we can go home lunchtime, fine, but he needs his prescription. So we can come back for the prescription, but why could they not have just handed the prescription over, in this case to my sister, who could have gone to one of the other chemists in the Island and picked



it up, thereby you would have had that bed vacated 4-6 hours earlier for somebody else or for cleaning the ward. The prescription would have been picked up by the third sector, i.e. because there is no charge at the moment so it does not matter where the prescription comes from, and therefore you possibly could be saving also on a considerable amount of manpower yet again when you are discharging patients. These are the things that need to be looked at when you are looking at savings and I note the Minister is making a few notes there but I think there are areas there that there could be big savings because, if that is done 20 persons per day are released from hospital, or whatever the number may be, and they are just waiting, hanging around in the hospital, basically in the way I suppose, because once you are ready to go home, you are ready to go home, you do not need to stay there for lunch and all that goes with that, and the cleaning and so forth, it is a matter of concern that we are allowing... it is natural wastage within the department that has not been picked up and I would have expected it to have been picked up some time back, given the cuts across the health service, that had not been picked up before. But, that said, I am so pleased we are moving forward in looking at new sites for hospitals, *et cetera*, and we should be looking across the spectrum of the Island, because the Island is only 9 by 5, it does not have to be in St. Helier, it could be in another Parish, as long as we have a good bus service... St. John is fine, the Zion Chapel, perfect. **[Laughter]** We might resolve an issue or 2 for the Minister for Planning and Environment. But wherever it may be, we can put a good hub service for our buses and so forth, and in fact if it was in St. John it might give us a better bus service than the poor bus service we have at present, but wherever it goes we should be looking, and I shall mention this for the Assistant Minister for Treasury and Resources to look the big picture and not try and keep everything in St. Helier, because we have sites out there, maybe the old St. Saviour Hospital, which I believe is another one with an S.S.I. (Sites of Special Interest) on, it could be flawed. There is nothing, who wants to remember a building that has had so much misery in it, because a lot of sad things happened there and why do we want to keep buildings that have bad memories? Surely we should move on, use a site that can be used in another way and move forward. Think outside the box; that is what I just have to say. Thank you very much.

**The Bailiff:**

States Members, it is now nearly 5.30 p.m., I am not sure whether Members want to complete this debate tonight. **[Approbation]** We will continue, there is yet to speak, only one further Member, Senator Ferguson, and then presumably the Minister for Health and Social Services will wish to reply, unless Members wish to speak. So can I invite a proposition as to whether we adjourn now or whether we continue?

**Deputy J.M. Maçon:**

If I can propose that we continue until finished.

**The Bailiff:**

**[Seconded]** All those in favour. Very well, Senator Ferguson.

**7.3.17 Senator S.C. Ferguson:**

I am not going to be very long; I just felt I had to pick up a few points. The Deputy of St. Ouen mentioned the question of, where is the money coming from, and I would remind the Minister for Treasury and Resources that it should not come from a public/private partnership, and the managing director of the hospital agrees with me on that one. The Chief Minister talks about the third sector and the third sector doing it better and cheaper, so why is the department not working better with the third sector? I think most of us have heard from various charities that they are not being listened to. Will the Minister take a lead on this and do something about it? I believe in reform and change in our health service and I think it can be done by at the same time reducing costs, and I encourage the Minister to pursue this. The Minister for Treasury and Resources talks

about looking after people with senile dementia; it is the carers, not the sufferers, who need most of the looking after. The Constable of St. Peter mentions the hospital and the engineering side of it. Deputy Baudains has already talked of the type of services and the sort of hospital we need, and I think the Minister and her advisory team should take notice of this because this is a small Island; do we need a big hospital? Also, in business, those of us who have been in business, we have found that you must get a system operating correctly before you have the new computer system or new building or whatever. So Deputy Baudains' comments are very apposite. I will support the proposition since I believe in reform of the system but I do promise to keep nagging.

[17:30]

**7.3.18 Senator L.J. Farnham:**

I would just like, on behalf of the Minister for Health and Social Services, to thank Senator Ferguson for summing-up, it is going to save you quite a bit of time when it comes to you. I am going to be super quick. Obviously I echo all the very positive comments in support of the proposition, but I would just like some assurance from the Minister that she has an understanding of the situation in relation to outpatients, because G.P.s and medical practices are putting a lot of patients into the outpatient system and they do not see them back again; they tend to be retained by the hospital, which quite ironically is one of the reasons the hospital is bursting at the seams, because of the rising number of outpatients. I would like the Minister for Health and Social Services just to confirm that. She is shaking her head, but I understand that is an issue and it could be a bigger issue moving forward. When really, because the G.P.s arguably, probably always, know their patients better than anyone else, I believe that, when patients are referred to consultants, they should be dealt with accordingly and then returned into the primary care system as soon as possible to ensure the flow of patients. That is it from me, thank you.

**The Bailiff:**

Does any other Member wish to speak? We will have the Minister for Health and Social Services' reply.

**7.3.19 The Deputy of Trinity:**

I shall try and be succinct if I can and I will go by issues rather than going through what everybody has spoken. First of all, I would like to thank everybody who has spoken; I think it has all been very positive, and especially thank Members who have given their thanks to my hospital staff, because they do appreciate it, because sometimes they feel that perhaps States Members are not listening to them, but I can reassure them that you certainly are. That brings me on to recruitment and retention, which several Members have mentioned, and I am pleased to say that, regarding consultant-wise, we have had very positive retention and recruitment of consultants and our H.R. (Human Resources) director speaks to everyone who applies and just asks them: "What made you apply?" and one of the positive things that has come through since this White Paper is in fact the White Paper and the report and proposition, because not many consultants get the chance of being part of a redesign of health and social services, not many hospitals have social services as part of the wider group, and the rebuild of a new hospital. Regarding nurse recruitment, I have the up-to-date figures here somewhere, but the retention rate has dropped too, from I think it was about 10 per cent of people who retired or whatever in 2010, and that has significantly dropped in this year so far, so that is very positive. Things like nurse prescribing, which we have passed today, all that helps to retain the nurses with their specialist skills. Regarding the voluntary and community sector, I have always said that I have worked in the voluntary sector all my life, so I know where they are coming from and I can understand and I am passionate about the voluntary sector because they can do so much good work and our relationship with them is improving and will continue to improve, we have regular 3-monthly meetings with them, there was one the other night and the new

voluntary sector co-ordinator, I cannot think what his right title is, was there and he spoke to all the third-sector organisations that were there to say how important it is to work in partnership, *et cetera*. But also the Chief Minister has also given his backing to the voluntary sector and the Assistant Chief Minister, his brief is to look at the voluntary and community sector, so that in itself is very powerful. As regards working with specific areas that have been mentioned, like Silkworth Lodge and Brighter Futures, that work still continues. We have been working with Silkworth Lodge recently and it has been very positive and a good working relationship and looking at a 3-year service level agreement, as we will do with all third-sector groups if that becomes appropriate and making sure that the service level documents are fit for purpose and also that all responsibility, the department will know what to expect from them and vice versa. So that is really important. As for Brighter Futures, they do very good work and their grant continues for ever and they have been part of the outline business plans to going forward and they will be part, if they still wish to be, which I am sure they will be, of the full business cases as we begin to work up. Because all the input of all of the voluntary and community sector is so vital. As I said in my opening speech, they reach people that the States, for one reason or other, may not be able to reach, and those people usually are so vulnerable and on the edges of our society, so their input, going forward with full business cases, is vital. Primary care, I think Senator Le Gresley has mentioned primary care and we will continue to work with primary care, continue to work with G.P.s, in fact I have a meeting with G.P.s at 5.45 p.m. tonight, so I hope I will be able to give them some good news that we are all going forward and that the funding is there. Because the funding, as the Minister for Treasury and Resources said, if we approve this then the next stage is the Medium-Term Financial Plan where there will be some funding attached to it. We are not expecting any new service or community sector service to do it for nothing, we know that it comes at a price and that is important that they are well funded and well-resourced to give the best service they possibly can to all Islanders. Several people have mentioned the I.T. and I know the Constable of St. John has mentioned I.T. regarding JDoc and I think Senator Le Gresley did that. It is a slow process, so I have found, getting computers to talk to one another in different G.P. practices. I do not understand the whys and wherefores of it, but it is coming; it is slow, but it is on the way, and there is money there to make it happen, which is important. A lot of work has been done with G.P.s in regard to revalidations and they all had to be revalidated by December this year, a medical director is in post working with all the G.P.s to get them up to that level with the responsible officer, so there is all a lot of good work being done. As regarding the outline business cases, Deputy Hilton went into each one, each one is so vital. We identified that priority through the White Paper, talking to our staff, talking to clinicians, talking to the voluntary and community sector. A lot of work will still need to be carried on. This is not the end of it; this in fact is the beginning or a very long journey. I hope I have raised all the points that have been raised succinctly and I just really want to go back, I have faith in all my States Members that today they will do the right thing; they will put their faith in succeeding in making health and social service fit for all Islanders going into the future. We know that we have an ageing population, our numbers tell us that, but I think the increase of people over 65 will rise by 35 per cent; that is a vast number, which we need to make sure that we are ready, fit, whether it is in the community or in the new hospital, which is fit for purpose, we need to do it. Before I finish, I would like to thank everyone who has contributed, but it has been a long journey, a I said, a good 2 years' work, and I would like to praise my management staff, they get a lot of dingbats, but I think we should congratulate them, they have worked exceptionally hard, they have been focused... **[Approbation]** They have been focused and they know, listening to people and taking it forward. Without them we would not be in the place that we are today, because at the end of the day their main concern, like all of us here, is the care and wellbeing of all Islanders and you must not forget that. It is still the front-line staff too that are important, but also the management. That is it, I have finished and I call for the appel please.

**The Bailiff:**

Excuse me, Minister, as I understand it, paragraphs (b)(i), (ii) and (iii) all fall within the sections 4 and 5 of the report of the Council of Ministers, do they not?

**The Deputy of Trinity:**

They do. I would like to take it all in one go.

**The Bailiff:**

I am trying to assess whether in fact it makes any sense to do it in sections. It does not appear to make any sense.

**The Deputy of Trinity:**

No, I would like to do it as one please.

**Deputy G.C.L. Baudains:**

I was wondering if the Minister would consider taking the proposition in 2 parts.

**The Bailiff:**

For the reason I have just given, I am not sure it makes very much sense. Thank you. The appel has been called for. I invite Members to return to their seats, the vote is on whether to adopt the proposition of the Council of Ministers. I invite the Greffier to open the voting.

<b>POUR: 46</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.C.L. Baudains (C)		
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				

Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

### **The Bailiff:**

I give notice to Members that the tenth amendment to the Medium-Term Financial Plan has been lodged by Deputy Higgins, so that will join the list for debate.

### **8. Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):**

The order of business is as set out under M on the Consolidated Order Paper, with the addition of P.69/2012, Medium Term Financial Plan 2013-2015: tenth amendment, in the name of Deputy Higgins for the next sitting. Then on 4th December we are adding P.109/2012, Draft Alternative Investment Funds (Jersey) Regulations 201-, in the name of the Minister for Economic Development, and P.110/2012, Draft Financial Services (Amendment of Law No. 4) (Jersey) Regulations 201-, in the name of the same Minister. That is 4th December.

### **The Bailiff:**

Very well, the States now stand adjourned until 9.30 a.m. on 6th November 2012.

## **ADJOURNMENT**

[17:43]