

STATES OF JERSEY

OFFICIAL REPORT

MONDAY, 11th DECEMBER 2017

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[14:30]

The Roll was called and the Deputy Greffier of the States led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

1. Welcome to His Excellency The Lieutenant Governor

The Bailiff:

I am very pleased to welcome His Excellency in the usual way to the sitting. **[Approbation]**

QUESTIONS

2. Written Questions

2.1 THE DEPUTY OF ST. OUEN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE ADDITIONAL SINGLE PARENT COMPONENT OF INCOME SUPPORT: [1(628)]

Question

Will the Minister, in respect of the additional single parent component of Income Support, advise –

- (a) how many claimants received the component in the 12-month period prior to its removal on 1st November 2015;
- (b) how many of those claimants received the component for the first time during that 12-month period;
- (c) how many of those claimants were still in receipt of the component on 31st October 2015;
- (d) what the total amount of the component paid to claimants was in the 12-month period prior to 1st November 2015;
- (e) what the breakdown of the amount given in the answer to (d) above was, shown in the following bands:
 - i. Payments from £0.01 to £10.00 per week;
 - ii. Payments from £10.01 to £20.00 per week;
 - iii. Payments from £20.01 to £30.00 per week;
 - iv. Payments from £30.01 to £40.39 per week;
- (f) how many of the claimants who received the component in the 12-month period prior to 1st November 2015 were also in receipt of regular maintenance income for a child; and
- (g) what the average weekly amount was of maintenance income for a child received by those claimants?

Answer

Will the Minister, in respect of the additional single parent component of Income Support, advise –

- (a) *how many claimants received the component in the 12-month period prior to its removal on 1st November 2015;*

1,573 unique claimants are recorded as receiving the additional single parent component at some point in the period 01/11/14 to 31/10/15. This total includes claimants who received the component for part of the period and for the full period.

(b) *how many of those claimants received the component for the first time during that 12-month period;*

196 claimants are recorded as receiving the additional single parent component for the first time in the period 01/11/14 to 31/10/15.

(c) *how many of those claimants were still in receipt of the component on 31st October 2015;*

In total there were 1,276 claims recorded with a lone parent component at 31st October 2015

(d) *what the total amount of the component paid to claimants was in the 12-month period prior to 1st November 2015;*

The value of the additional single parent component was £40.39 per week throughout the entire period. The average net amount received (once income has been taken into account) was £26.80 per week. The total net value is £1.8 million; this calculation is based on the pro-rated proportion of the total benefit that a household would receive with all components and all income taken into account.

(e) *what the breakdown of the amount given in the answer to (d) above was, shown in the following bands:*

- i. *Payments from £0.01 to £10.00 per week;*
- ii. *Payments from £10.01 to £20.00 per week;*
- iii. *Payments from £20.01 to £30.00 per week;*
- iv. *Payments from £30.01 to £40.39 per week;*

The breakdown of the average net amount attributable to the additional single parent component is shown in the table below. Note that this represents the average over the entire 12 month period – some claimants will only have been in receipt of the additional single parent component for part of the period and in many cases the benefit payable will have fluctuated due to changes in income and other circumstances.

Band	Count of Claims
£0.01 - £10.00	138
£10.01 - £20.00	297
£20.01 - £30.00	475
£30.01 - £40.39	674

(f) *how many of the claimants who received the component in the 12-month period prior to 1st November 2015 were also in receipt of regular maintenance income for a child; and*

799 claimants were in receipt of maintenance at the same time as being in receipt of the additional single parent component at some point in the 12-month period prior to 1st November 2015. Maintenance can be paid in respect of a partner or a child. It should be noted that this figure is likely to include some claims where the maintenance payment and the additional single parent component were not always in payment at the same time.

(g) *what (is) the average weekly amount was of maintenance income for a child received by those claimants?*

The average amount of maintenance in respect of the 799 claimants identified in (f) was £55.38 per week in the 12-month period prior to 1st November 2015.

2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE RETURN TO THE GUARANTOR FROM ANDIUM HOMES: [1(629)]

Question

Will the Minister, as shareholder representative, inform members what the ‘return to the Guarantor’ from Andium Homes, currently £28.2 million annually and which is derived from some £46m of rental income, is used for?

Is it his assessment that this return ties Andium Homes into a high-rent business model (i.e. rents at 90% of the private sector) which makes the capping of rent levels at, say, 30% of household income impossible?

Answer

The ‘return to the Guarantor’ is included within General Revenue Income in the States of Jersey accounts which is offset against Net Revenue Expenditure. The return to the Guarantor is not allocated for a specific purpose but contributes to overall departmental expenditure.

In approving P.33/2013 (The Reform of Social Housing) and the policy to set rents at 90% of market rents this Assembly gave careful consideration to the Annual Return from Andium Homes and determined that the level agreed at the time, maintained in real terms (i.e. adjusted annually by RPI) was appropriate.

Income support provides components up to the full value of these rental levels thereby providing protection for Andium tenants on low incomes.

2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SOCIAL SECURITY REVIEW AND THE INVOLVEMENT OF THE STATISTICS UNIT: [1(630)]

Question

Further to the responses of the Minister for Social Security during questions without notice on 27th November 2017 that, in respect of the Social Security Review, the Statistics Unit has been involved “*in providing the questions without bias for any review that we do*” and that the Unit has been “*the principal port of call*” for the Department of Social Security and that the Unit has been involved with “*all 3 parts of this consultation and the review programme and very heavily so*”, will the Chief Minister specify what involvement the Statistics Unit has had with the Social Security Review and when that involvement occurred?

Answer

The Statistics Unit was asked for methodological and statistical advice and guidance on questions drafted by the Social Security Department during October 2016 and September 2017. This took place alongside other processes, including review with internal Social Security staff, and with consultants supporting the Social Security Review.

It is appropriate to seek the advice of the Statistics Unit in this way, as part of a process, as they have expertise in surveys and related methodologies.

The Statistics Unit follows the [Code of Practice for Official Statistics in Jersey](#), which enshrines their operational independence and separation from the design of policy.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE E.U. CODE OF CONTACT FOR BUSINESS TAXATION AND INFORMATION ON COMPANY PROFITS: [1(632)]

Question

Will the Minister advise whether the E.U. Code of Conduct for Business Taxation requires that a majority of company profits are subject to tax at a zero rate and that, in this regard, a clear majority of profits is at least 51%?

Will he further inform members what figures, if any, he has for trading company profits, by sector, subject to zero-rate taxation which show that these profits subject to zero-rating constitute the majority of overall company profits when compared with those subject to tax at other rates, including the new 20% 'supermarket tax'?

Will he also inform members what figures, if any, he has for the profits of the 30,000 'non-trading' companies in the Island?

Will he also state what proportion of total companies these figures relate to and when he expects to have figures covering 100% of companies?

Answer

Part 1.

The EU Code of Conduct Group on Business Taxation assessed Jersey in 2011 and were fully satisfied that a significant majority of companies subject to Jersey corporate tax were subject to the zero rate and that this was therefore the standard rate with no discrimination between locally and non-locally owned companies. To convince the Code Group the Island authorities had previously provided sufficient information showing that the zero rated companies accounted for the majority share of profits and employment. Updated analysis indicates that remains the case notwithstanding that large Corporate retailers are being subject to tax at 20% from 2018.

Part 2.

Company Tax Returns

Company profits data collected through company tax returns is currently available for the year of assessment 2015. The filing deadline for the submission of 2016 company tax return is 31 December 2017 hence this data will become available during 2018.

The profits data gathered on the company 2015 tax return is:

- taxable profits of companies subject to tax at the rate of 0% provided there is ultimately a Jersey resident individual owning more than 2% of the ordinary share capital of the company;
- taxable profits of companies which are within the definition of "financial services company" and subject to tax at the rate of 10%;
- taxable profits of companies which are within the definition of "utility company" and subject to tax at the rate of 20%;
- taxable profits arising from the renting of land, property development and quarrying in Jersey; and
- taxable profits arising from the importation and/or supply of hydrocarbon oils in Jersey.

The data gathered on the 2015 tax return relating to taxable profits which are subject to tax at the rate of 0% does not distinguish between the profits arising from trading activities and the profits arising from non-trading activities.

Companies have not been required to indicate which sector they operate in on their company tax return. Some relevant sectional analysis has been completed in the answers to Written Question 504 [http://www.statesassembly.gov.je/assemblyquestions/2017/\(504\)%20dep%20southern%20to%20c%20m%20re%20breakdown%20of%20local%20non%20local%20ownership%20of%20companies.pdf](http://www.statesassembly.gov.je/assemblyquestions/2017/(504)%20dep%20southern%20to%20c%20m%20re%20breakdown%20of%20local%20non%20local%20ownership%20of%20companies.pdf)

The 2015 tax return does not require a company to declare profit which are subject to tax at the rate of 0% where ultimately a Jersey resident individual does not own more than 2% of the ordinary share capital of the company.

Information from the Jersey Financial Services Commission (“the JFSC”)

In 2017 the JFSC was commissioned to prepare a report indicating the total amount of profits reported for 2015 by regulated companies which are subject to tax at the rate of 0% where they held relevant data and the Taxes Office did not hold profits data. This information was requested and supplied based on an aggregate basis only.

Based on the data sources outlined above only it is estimated that for 2015 £2.1bn of profits¹ was subject to tax at 0% and £1.2bn of profits was subject to tax at a positive rate of tax.

There are circa 45k companies considered to be resident in Jersey. Circa 11k of those companies are foreign incorporated and are managed and controlled in the Island. Data was available in respect of circa 6k companies. Accordingly, data was available in respect of 13% of the companies considered to be resident in Jersey.

Part 3.

As outlined in the previous section, the 2015 tax return does not require a company to declare profits which are subject to tax at the rate of 0% where ultimately a Jersey resident individual does not own more than 2% of the ordinary share capital of the company. In the context of a company where ultimately a Jersey resident individual does own more than 2% of the ordinary share capital the 2015 company tax return does not require the company to specifically identify the profits which are subject to tax at the rate of 0% between those profits which arise from trading activities and those profits which arise from non-trading activities.

Accordingly the data for profits taxed at 0% include both trading activities and non-trading activities.

Part 4.

Work to gather more information regarding the profits of companies is ongoing.

The 2016 company tax return was amended in order to collect profits data from all companies which are trading in Jersey through a permanent establishment. This data will be available in 2018 when the Taxes Office has collated the information declared on the submitted 2016 company tax returns.

The final format of the 2017 company tax return is currently under consideration.

¹ Profits is stated before any deduction for capital allowances and losses brought forward which can be offset against current year profits under Article 108 of the Income Tax (Jersey) Law 1961.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FUNDING OF HIGHER EDUCATION TUITION FEES AND MAINTENANCE GRANTS: [1(633)]

Question

Will the Minister give members full details of the proposals announced during the debate on the 2018 Budget Statement for the funding of higher education tuition fees and maintenance grants (including the sources of funding) and the removal of higher rate child allowance for the years 2018 - 2022?

Will he also, following discussion with the Minister for Education, give details of the schedule for any consultation process in respect of these proposals and outline what aspects of those proposals, if any, will be open to change through consultation?

Answer

Details of the proposals were included in the Minister's opening speech for the Budget debate on 28th November 2017. The main elements of the proposals, which will now be consulted on, are as follows:

- Access to a grant for tuition fees will be extended to all eligible students (undergraduates, first degree only). This will extend to the maximum cost of a standard UK degree (currently £9,250 per year), with additional sums for courses such as medicine courses, in line with the current scheme.
- Those students in households with an income of less than £150,000 will have access to a grant for 100% of their tuition fees.
- For those in households with income of £150,000, the grant will cover 50% of the tuition fees.
- An extension of the current means tested maintenance grant to more students and their families to contribute towards living expenses. The threshold for receiving such a grant will be increased to household income up to £95,000.
- Removal of the Higher Rate Child Allowance from the tax system will form part of the funding solution. This is worth about £3.5million per annum and will be announced in the 2019 Budget.

The Minister for Education has already announced publicly that the consultation began on 11th December and will end in early January, with the review being completed as fast as possible thereafter.

2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING AGRICULTURAL GRANTS AND LOANS: [1(634)]

Question

Will the Minister list for members –

- (a) all grants made in the last 4 years to the agricultural industry, identifying what they were for and whether the recipients were locally or foreign owned; and
- (b) all loans to the agricultural industry in the last 4 years, identifying what they were for, the rates of interest charged and whether the recipients were locally or foreign owned?

Answer

- (a) Details of all grants provided by the Department to the agricultural industry are listed, each year, in the Annex to the States Financial Report and Accounts. Eligibility criteria for grants are not predicated on beneficial ownership as they are provided for a specific purpose.
- (b) No new agricultural loans have been provided within the last 4 years.

2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING POLICIES TO REDUCE ECONOMIC INEQUALITY: [1(635)]

Question

Will the Chief Minister identify which specific policies adopted by the Council of Ministers over the last 3 years have been designed to reduce economic inequality in Jersey; and will he provide his assessment of how effective these measures have been?

Answer

Alongside priorities such as delivering a strong economy and sustainable public finances, this Council of Ministers has adopted a range of policies that aim to support Islanders, including those on lower incomes. This is in line with the Strategic Plan, which highlighted better educational and health outcomes as a way to improve social inclusion.

Ministers have introduced policies that reduce unemployment, and have prioritised education, for example through the Jersey Pupil Premium and by increasing financial support for students in higher education. Tax-free allowances have been increased for 35,000 households.

The number of Islanders who say they are finding it difficult to cope financially has fallen between 2014 and 2017, however the Income Distribution Survey would be the appropriate measure of income inequality. Funding is being requested to deliver this survey in 2018.

2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING POLICIES TO INCREASE SOCIAL MOBILITY: [1(636)]

Question

Will the Chief Minister identify which specific policies adopted by the Council of Ministers over the last 3 years have been designed to increase social mobility in the Island and will he state how effective these measures have been?

Answer

This Council of Ministers has adopted a range of policies that aim to improve Islanders' life opportunities, including for those on lower incomes, and in relation to educational outcomes and skills. Policies like Pupil Premium and help for students attending higher education are likely to increase social mobility. This has been done at the same time as prioritising a strong economy that provides a range of rewarding jobs and meaningful training opportunities. At this juncture, however, initial discussions with the Statistics Unit have not identified a statistical release that provides a meaningful measure of social mobility.

2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE DEPARTMENT'S COMPLAINTS POLICY FOR CHILDREN AND VULNERABLE ADULTS: [1(637)]

Question

Further to his answer to Oral Question 1(610) on 14th November 2017, will the Minister provide for members his Department's policy which sets out –

- (a) the rights of children when making complaints about staff or in respect of the care they receive from the Department;
- (b) the procedure for making complaints and the representation which is granted in such cases;
- (c) the rights of appeal that such children have if their complaints are not upheld;

and will the Minister also outline for members –

- (d) what rights vulnerable adults have when making complaints about staff or in respect of the care they receive from his Department;
- (e) what the procedure is in such cases for making complaints and the representation they are granted; and
- (f) what rights of appeal such vulnerable adults have if their complaints are not upheld?

Answer

As I stated in my response to Oral Question 610, all complaints, irrespective of whom they come from, are taken seriously with complaints from both adults and children dealt with using the same process. [The HSSD complaints policy is currently being reviewed as part of the normal governance process.] When a third party is involved in supporting an adult or child, informed consent is sought and confirmed in order to allow appropriate information sharing and protection of personal data.

- a) All complaints are taken seriously and, as such, a child/young person will be encouraged to resolve any issues that they have and make formal complaints through the HSSD complaints department. Children and young people are encouraged to make appropriate complaints if they are not happy with the quality of care that they are receiving, or with a response that they have had from a member of staff. As outlined below (in point b), there are a number of elements in place for children and young people to ensure that their voice is heard, that they are listened to and that their concerns are acted upon in a timely manner. The Service will be recruiting a children's rights officer and a number of children's rights assistants (anticipated to be care-experienced young people). These posts will support all children and young people to continue to have a voice across the service.
- b) A robust complaints and investigation system is an important component in promoting and ensuring the safeguarding of children and young people. Children and young people can make a direct approach to the complaints section within the Health and Social Services Department. Complaints can be received on behalf of children from independent visitors, social workers, a member of residential staff, a youth worker or any other participation worker. We also have the Jersey Your Voice initiative run by Barnardo's which is funded by the department, and whose staff regularly visit the residential settings.

The young people in residential care also have a forum of peers where they can raise concerns and seek advice from other residents. All complaints are treated seriously and investigated thoroughly with the oversight of the Director of Children's Social Work, before a response to the complaint is sent.

Children's Social Work Service has recently purchased an interactive app MOMO (Mind of My Own) to enable children and young people to have their say and to make comments or complaints in relation to staff, services or any other issue that they may have using mobile technology. The training for this will be across all agencies that are involved with children and young people and will begin in January 2018. As this is a complaints process and not a legal process, the child/young person would not be legally represented, but would be supported through the process by a worker who they have a relationship with and trust. The

participation officer has in the past supported children and young people to access the complaints procedure and has supported individuals through this process.

- c) There is an appeals process currently in place if the child/young person's complaint is not upheld. The complaint is escalated through the complaints process to a stage 2, which means that the complaint is reviewed by a panel made up of senior non-operational staff. During this process, the child/young person is able to access support from their social worker, residential worker, independent reviewing officer, advocate or any other person of their choice that they have a relationship with.
- d) All adults, regardless of their vulnerability and capacity, have the right to complain about the service they receive or the individuals who may be delivering that service. All complaints are taken seriously and registered for a formal investigation and response. Independent advocacy support is available for adults with a learning disability and/or on the autistic spectrum and for adults with mental health needs through Jersey Mencap and MIND Jersey.
- e) All individuals use the same procedure in regard to using the HSSD Complaints Policy.
- f) In the first instance, the department seeks to address all complaints at the lowest level before escalating them. Therefore, it is important that officers and managers seek to address any complaint early and quickly informally to the satisfaction of the complainant. Where this is not achieved, a complaint is formally registered with the C&SS Quality Assurance & Governance Team at Stage 1 to establish an independent investigation into that complaint. Outcomes of this investigation are signed off by the relevant Service Director. If the complainant is not satisfied with the outcome of that complaint, they do have the right of appeal, where a subsequent review and, if necessary, further investigation can be completed at stage 2. This will then be heard and signed off by the Director of Operations within Community and Social Services.

2.10 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR THE ENVIRONMENT REGARDING AGRICULTURAL GRANTS AND LOANS PROVIDED BY HIS DEPARTMENT: [1(638)]

Question

Will the Minister advise whether his Department provides any grants or loans to the agricultural industry separately from any such grants or loans provided by the Department of Economic Development, Tourism, Sport and Culture and, if so, will he list for members –

- (a) any such grants made by his Department to the agricultural industry during the last 4 years, identifying what they were for and whether the recipients were locally or foreign owned; and
- (b) any such loans provided by his Department to the agricultural industry during the last 4 years, identifying what they were for, the rates of interest charged and whether the recipients were locally or foreign owned?

Answer

- (a) A summary of grants provided by the Department of the Environment to the agricultural industry are listed annually in the States of Jersey financial report and accounts Annex, available on the States website.

The Department of the Environment provides support to the agricultural industry in the form of the Countryside Enhancement Scheme (CES), which is an agri-environment program intended to help land managers make environmental improvements.

Appendix A provides details of the CES support provided to the agricultural industry in the last 4 years.

Eligibility criteria for grants are not predicated on beneficial ownership as they are provided for a specific purpose.

- (b) The Department of the Environment has not provided any loans to the agricultural industry in the last 4 years.

3. Oral Questions

3.1 Deputy T.A. Vallois of St. John of H.M. Attorney General regarding the legal context to the role of States Members as the corporate parent in relation to children in care: [1(648)]

Will Her Majesty's Attorney General explain the legal context to the role of States Members as the corporate parent in relation to children in care?

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

The concept of the corporate parent is not one currently recognised under Jersey law. Individual States Members, other than the Minister for Health and Social Services, do not have any specific responsibility towards children in care, rather for children generally. In England and Wales a care order is made in favour of the local authority. In Jersey a care order is made for the Minister who assumes parental responsibility for the child, as well as other duties set out under the Children Law 2002. The Independent Jersey Care Inquiry made the following recommendation, namely, to emphasise the importance of this responsibility, namely corporate parent: "We recommend that reference is made to the specific responsibility in the oath of office taken by Members of the States Assembly." That is recommendation 6. In that regard, the proposition lodged by the Council of Ministers for debate in January, P.108/2017, sets out the Council's response to the Independent Jersey Care Inquiry and states that: "It is proposed that further policy development is progressed to describe the role of the corporate parent in legislation and more widely, and the opportunities this presents to ensure better outcomes for children." A key area of change highlighted in the Inquiry report was the roles and responsibilities of elected Members. The Privileges and Procedures Committee is considering the Care Inquiry's recommendations in this area and is expected to bring forward a proposition in relation to the oath sworn by States Members and their induction.

3.1.1 The Deputy of St. John:

I appreciate the response from Her Majesty's Attorney General. Can I just delve a little bit deeper in terms of understanding the corporate parent, as I understand it, with the Minister for Health and Social Services in terms of children in care and then the specifics which the Attorney General has just mentioned in relation to the Care Inquiry for all States Members of this role or concept of corporate parent? Could the Attorney General advise whether there would be any conflict or affliction in that particular role considering what we have in a legal context for the corporate parent for the Minister for Health and Social Services and what we are seen as in terms of independent States Members?

The Attorney General:

I do not think there would be a conflict but of course the extent to which there might be will depend upon the definition of "corporate parent" adopted by due course by this Assembly.

[14:45]

There is no definition of course yet in Jersey law or indeed in England and Wales. There is in Scotland, under the Scotland Children and Young People Act 2014, which clearly defines the responsibilities of the corporate parent, which extends to all Scottish Ministers, and thereby the Government, and defines, for example, the duty of corporate parent, extending to be alert to matters which might or might adversely affect the well-being of children, to assess the needs of those children and young persons for services it provides, to promote the interest of children and young persons, to seek to provide them with opportunities to participate in activities designed to promote their well-being, and so on. I will not read out the whole list. So a wide scope of duties imposed on the corporate parent. In relation to the Minister, his duties are more closely circumscribed under the Children Law and they are principally the provision of accommodation for children and general duties in relation to looked after children, namely safeguarding and promoting their welfare and to make such use of services available to children generally as appear to be reasonable in the case of the child concerned.

The Deputy of St. John:

I would like to thank the Attorney General for his answers.

3.2 Deputy S.Y. Mézec of St. Helier of the Minister for Health and Social Services regarding arrangements for the prescription of certain medicinal cannabis products: [1(649)]

Further to the Minister's comments to the Assembly on 26th September 2017 that he hoped that arrangements to prescribe certain medicinal cannabis products would be in place "by the end of the year", will the Minister provide an update on this matter?

Senator A.K.F. Green (The Minister for Health and Social Services):

I thank the Deputy for his question. I have to say that I am very disappointed that I am not in a position to yet action this but I can assure Members that we are keen to move this forward with plans to recategorise specific named medical cannabis products. I have to say I am somewhat frustrated that this is proving far more difficult than originally envisaged and I apologise for that. Work on identifying specific quality controlled products is taking longer than we thought. I can assure Members that I remain committed to moving this forward as soon as I possibly can.

3.2.1 Deputy S.Y. Mézec:

I am grateful for the Minister's answer. Is he able to indicate any sort of new timetable by which he thinks he will be in a position to move forward with this, as he indicated earlier this year?

Senator A.K.F. Green:

I am not in a position to do that other than to say that I want to do this as quickly as possible. Part of the problem is identifying clinically produced, consistently to the right standard, products; that is one thing. They are there, they exist. I have had some help from what I might call patient experts in identifying that. The second thing is: finding organisations that are prepared to deliver here; not only deliver here but other third party countries allowing the product through where it is illegal in their country to do so. I do not think any of those are insurmountable. They are just taking a little bit longer.

3.2.2 Deputy M. Tadier of St. Brelade:

Could the Minister clarify who is responsible for ultimately identifying the clinical products that can be signed off by himself?

Senator A.K.F. Green:

The advice will come from M.D.A.C. (Misuse of Drugs Advisory Council) but specifically the individual concerned would be the Chief Pharmacist.

3.2.3 Deputy M. Tadier:

Does the Minister for Health and Social Services not think it is strange that we are reinventing the wheel? There are clearly countries out there who, long before Jersey, have legalised certain medicinal products for use in their own countries who are much bigger than Jersey is in terms of its population. So why are we trying to reinvent the wheel on this particular issue?

Senator A.K.F. Green:

We are not trying to reinvent the wheel. We have to have an approved supplier and that approved supplier has to be prepared to deliver to Jersey. The countries through which that must travel has to be in agreement to allow it to travel through those countries. We are not trying to reinvent the wheel. We are not designing our own drugs. They are there, as the Deputy says, but we need to make sure that we can access them and have a good supply service that is always of the right consistent quality.

3.2.4 Deputy S.Y. Mézec:

We are obviously not talking about an individual product here but many products. Is the Minister able to indicate whether there would be any likelihood of perhaps some products being made available earlier than others rather than waiting to do as many as possible in one batch? Does he foresee this as a process that may go on for some time with more and more products being added to it rather than simply waiting?

Senator A.K.F. Green:

Exactly that. I am hoping that there may be products that are easier to source and get online, and then that makes it much easier to follow on with the others. So we are not waiting until we have got the perfectness. We are waiting until we have got a list that we can deliver.

3.3 Connétable C.H. Taylor of St. John of the Minister for Home Affairs regarding the cost for the training of fire officers and cover provided by the Fire and Rescue Service in place of the R.N.L.I. all-weather lifeboat: [1(642)]

Will the Minister provide the cost to date for the training of fire officers and cover provided by the Fire and Rescue Service in place of the R.N.L.I. (Royal National Lifeboat Institution) all-weather lifeboat; and will she also provide figures for the anticipated ongoing cost to the Fire and Rescue Service?

Deputy K.L. Moore of St. Peter (The Minister for Home Affairs)”

I am sure Members will agree that the first priority must be to ensure that all possible assets are available to save lives at sea. To that end, I wish to commend the Fire and Rescue Services [Approbation] for the speed in which they have worked with the R.N.L.I. and existing volunteers from St. Catherine’s Lifeboat Service to bring the St. Helier inshore lifeboat back into operational service. It took just 16 days. I think they all deserve our thanks in this regard. The cost to the Fire Service to date for the training of fire officers to crew the inshore lifeboat is £7,808. The other associated costs of training, which include backfill for firefighters being trained, are R.N.L.I. trainer costs and medicals: total £31,987. These are all being funded by the R.N.L.I. There are no future anticipated costs to the Fire and Rescue Service because the response and ongoing training will only be carried out by on-duty personnel, usually one or 2, who are already paid to be on duty.

3.3.1 Senator S.C. Ferguson:

Is the £30,000 or so that is being funded by the R.N.L.I. coming out of the funds that are held in pool by the R.N.L.I. on behalf of Jersey?

The Bailiff:

I am not sure that is a matter for this Minister. I do not see how this Minister could answer that question.

3.4 Senator S.C. Ferguson of the Minister for Health and Social Services regarding services which were undertaken in the existing hospital but which were not planned to be undertaken in the new hospital: [1(644)]

Further to his answer to Written Question 1(175) on 28th March 2017, will the Minister set out which services are currently undertaken in the existing hospital and are not planned to be undertaken in the new hospital?

Senator A.K.F. Green (The Minister for Health and Social Services):

I know you want us to be fairly speedy, Sir. The answer to that question is in 1(175). The list of all the services that will be provided runs to over an A4 page. I am sure you would not want me to read them out. All the services that you would expect to find in a District General Hospital will be provided in the new hospital as now.

3.4.1 Senator S.C. Ferguson:

It is said that services such as the chapel and the hydrotherapy pool are still questionable. Can the Minister confirm that these will both be provided within a new hospital?

Senator A.K.F. Green:

I can absolutely assure Members that in terms of the chapel, there will be a faith facility within the new hospital. In terms of the hydrotherapy, there will be a hydrotherapy service. It is one of the first things we have to knock down on the new site but there will be a hydrotherapy service.

The Bailiff:

Just so I understand, Minister; does that mean it may not be provided in the new hospital?

Senator A.K.F. Green:

What we have to do is to remove the hydrotherapy service currently where the new hospital is going to go. We are investigating whether that would be a permanent move or a temporary move. We do not know the answer to that.

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

Will the Minister elucidate for Members how many services he intends to relocate from the hospital into the community and whether those services will require direct payment, like G.P.s (general practitioners) do currently?

Senator A.K.F. Green:

This is nothing to do with the new hospital directly. This is to do with modernisation of our services, and we have a couple of pilot schemes at the moment in terms of delivering diabetes, for example. The very question the Deputy asks about who pays, that is under investigation at the present time.

3.4.3 Deputy G.P. Southern:

May I ask the Minister when he is likely to come to the House with some costing provisions for the supply of services to the community other than G.P.s?

Senator A.K.F. Green:

I am not sure I understand the question. I wonder if the Deputy could repeat it.

Deputy G.P. Southern:

When can you come to the Assembly with costed plans to what services will be delivered in the community and what price they will be?

Senator A.K.F. Green:

The plans for services delivered in the community generally are contained within P.82. The costs or the money needed to do that will be in the Budget or in the next M.T.F.P. (Medium Term Financial Plan) 3. I do not think I can say much more than that at this stage.

Deputy G.P. Southern:

Can the Minister point me to the right page in P.82 because I have not seen them?

The Bailiff:

Deputy Southern, thank you.

3.4.4 Deputy R. Labey of St. Helier:

I do not think I am the only Member who is getting representations on behalf of the hydrotherapy unit and the hospital. What are we to tell people who are concerned about this? Will there be a hydrotherapy pool in the new hospital? Will patients requiring that have to go to the Splash pool on the Waterfront? Could the Minister elucidate and be a bit more clearer about it?

Senator A.K.F. Green:

As I said before when I answered the question originally, there will be a hydrotherapy service. I know how important it is, I used it myself recently. There will be a hydrotherapy service but it is one of the first things on the site where the new hospital is going that has to be removed. Now it is expensive to move them twice, so all I am looking at is whether we can do it on some other premises, maybe in Health, but there will be a hydrotherapy service.

3.4.5 Deputy G.P. Southern:

Could I ask the Minister for Health and Social Services to reconsider his answer when he referred to P.82 because P.82 was a very broad and generic document, which may have contained some figures in the overall spend and savings that are going to happen but did not elucidate, I believe, any particular services to be delivered in the community? Will he reconsider that answer and amend it appropriately?

Senator A.K.F. Green:

I will reconsider the answer I have given when I fully understand the question. So I will take the opportunity to discuss it with the Deputy afterwards, make sure I fully understand what it is, because I want to be transparent and open, and then I will forward the answer to all Members.

3.4.6 Senator S.C. Ferguson:

Among the services we offer at the hospital are 40 bedsits, 7 one-bed flats and 9 2-bedroom flats at Westaway Court. I understand that the 40 bedsits will be transferred to The Limes and the other 2 - the 7 one-bedroom flats and the 9 2-bedroom flats - is an unspecified relocation. In other words, it

will be up to the people occupying them themselves. Why are we doing that when we are so short of accommodation in the Island?

Senator A.K.F. Green:

We also need a new hospital and when the Senator asked me the question about facilities in the hospital she did not particularly ask me about staff facilities, otherwise I would have been able to answer that directly. We are working on a key worker accommodation process. Meanwhile we have The Limes, as the Senator says, being renovated for junior doctors, and we will be supporting our staff, those that are Peter Crill House at the moment. We need to clear that site in order to have a new hospital. A hospital that is urgently needed. A hospital that this community wants.

Senator S.C. Ferguson:

Supplementary, Sir.

The Bailiff:

That was your supplementary. That was the last one, Senator.

[15:00]

Deputy M. Tadier:

Since I lodged this question the report has just been given to me and it arrived on my desk this morning, which means that I need time to digest that, and I will be withdrawing the question.

3.5 Deputy C.F. Labey of Grouville of the Chief Minister regarding the extension of the Freedom of Information (Jersey) Law 2011 to wholly-owned or majority-owned States entities: [1(640)]

Given the adoption in November 2014 of my proposition P.149/2014, questions I asked in February 2016, January 2017 and July 2017, and previous advice from the Chief Minister that work was under way and that he would bring forward measures to include wholly owned and majority-owned States entities within the Freedom of Information Law, will he state what has happened and why that decision of 3 years ago has not been implemented?

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

I outlined in July a review and that review is taking longer than anticipated. I am sorry to say that that remains the case. Therefore, in the final months of this term of office I will do what I can to deliver on the Assembly's decision.

3.5.1 The Deputy of Grouville:

I would like to understand a bit further about this delay. Is it a case that it is not a priority of the officers that are meant to be working on it, that they do not have enough time, or is it a lack of political will? Because, after all, it was the Council of Ministers who predominantly voted against this coming forward. So, I would like to understand where the delay is.

Senator I.J. Gorst:

It is probably all of those areas. Officers in my department, particularly officers undertaking this review, are extremely busy. It is quite a complex area to separate out those areas that would be the subject of F.O.I. (Freedom of Information) and those that would be commercially sensitive. There are another number of improvements and refinements to F.O.I. that need to be made and if I am honest I have to say that with all of the other workload that I have had I have not given it the priority that I ought to have done. That is why I gave the commitment that I did at the end of the answer.

3.5.2 Senator S.C. Ferguson:

I cannot see that this is that complicated, and it would prevent extreme frustration for the public. Would the Chief Minister give an undertaking that this will be brought in before next May?

Senator I.J. Gorst:

I am not going to make a double error. It has taken longer than I had hoped for and I can do no better than to say that I will do all that I can to try and deliver a decision to this Assembly in order for them to vote on it.

3.5.3 The Deputy of St. John:

Could the Chief Minister explain why a review is needed in this respect? The States agreed that the actual companies should come under the Freedom of Information Law, so is the Freedom of Information Law being changed because of the companies or because there are problems with the Freedom of Information Law?

Senator I.J. Gorst:

A review was started to cover the bringing together of these companies. When we started that review, we became aware - and I think have been aware for quite a while - that there are some deficiencies, some areas where the public should have greater access to information and some areas, in order to deliver appropriate policymaking conversations, there needs to be refinement in those areas. It is possible that we could perhaps pull it out of that review and just bring those changes forward, but it would leave the other areas which are deficient then to a second stage.

3.5.4 Deputy R. Labey:

When the States Assembly backs a Back-Bencher's proposition, as with the Deputy of Grouville's P.149/2014, and that decision is not enacted by the Council of Ministers, is that a deliberate - and considered appropriate - assault to the primacy of this Assembly or just an accidental one?

Senator I.J. Gorst:

It was not deliberate. I could have stood up here, as I have done on other occasions, and given several convoluted excuses. That would not be right. It has not happened. I stand to say sorry that it has not happened as I did in my opening comments, and I will endeavour to correct that situation.

3.5.5 The Deputy of Grouville:

I am willing to accept that the laws might be complex, but they are not so complex. If these entities were part of the States - they were States departments before and if they were still now - they would be subject to Freedom of Information. The Parishes have done their bit. They have come within the law, so it is not beyond the wit of man to get these entities covered by the Freedom of Information Law. I am not prepared really to accept that as an excuse, but what I am absolutely not prepared to accept is the lack of political will. Because when I offered that as a possible reason that it has not come forward, the Chief Minister said all of those reasons. Well, I am not ...

The Bailiff:

The question?

The Deputy of Grouville:

The question is: does he not agree this is unacceptable?

Senator I.J. Gorst:

I do agree it is unacceptable. It would be disingenuous of me to say that I have to admit that it has not been a priority with all of the other priorities that I have had to navigate over the last 3 years. I

stand to say I apologise to the Member for that and I will do what I can in the remaining months of this term of office.

3.6 Deputy J.M. Maçon of St. Saviour of the Minister for Treasury and Resources regarding the recent erection of fencing at St. Catherine's [1(631)]

I do appreciate in some ways I have been superseded by events. Will the Minister as shareholder representative explain why the fencing which Save Jersey's Heritage has been reported as describing as inappropriate has been erected at St. Catherine? Will he request the Ports of Jersey to remove it and deal with the area differently and, if not, why not?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I am going to ask my Assistant Minister to take this question as he has responsibility for shareholder matters.

Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

The Ports of Jersey have advised me that a rock stability survey was carried out at the beginning of this year. This showed increased safety concerns that crumbling rock may fall on to members of the public passing nearby and that their responsibility for the safety of the public is uppermost in their minds. Furthermore, there have also been recorded incidents of unauthorised attempts by persons trying to climb the unstable rock face of Gibraltar Rock without any permissions or protective equipment, placing themselves and passing members of the public in further danger. Public safety in all areas of the port's responsibilities remains an absolute priority for the Ports of Jersey at all the sites they control and the installation of this fencing was considered to be necessary in order to maintain the safety of the public.

3.6.1 Deputy J.M. Maçon:

I appreciate that since this time Ports is looking to change - I believe has changed - the look of it. Therefore, does the Minister think that perhaps a change to the memorandum of understanding or articles of association for the protection of the public realm for this and other States-owned bodies should be looked at and reviewed and brought forward? Because, of course, the big issue about this is not only heritage but the tourism aspects of the area.

The Connétable of St. Peter:

I personally do not think that it is appropriate to change the memorandum and articles on this particular topic. That is a matter for the Minister for the Environment if he feels it appropriate to look at the ability for Ports to do certain works without first taking through his department. I think it would be fair to say that Ports of Jersey have recognised their error in racing in with this work with some equipment they already had in stock rather than buying in more suitable equipment to provide that public safety element.

3.6.2 Senator S.C. Ferguson:

I wonder would the Assistant Minister like to explain how we are going to put the whole of the Island into cotton wool to prevent people falling over and hurting themselves.

The Connétable of St. Peter:

I am not quite sure I can answer that question. I do not think there is an attempt to do so, but however in these modern days of litigation we have to be prepared to protect ourselves from that very litigation.

3.6.3 Connétable S.A. Le Sueur-Rennard of St. Saviour:

Just going off-piste ever so slightly, if the Port authorities are worried about the Islanders, why did they withdraw our lifeboat?

The Bailiff:

No, that is not for Treasury and Resources. Deputy Labey.

3.6.4 Deputy R. Labey:

How many people have been killed or injured by falling rocks in the Island which would call for the fences to be erected?

The Connétable of St. Peter:

None to my knowledge. However, the Deputy and other Members may recall that part of the Snow Hill Car Park has been closed for quite a fair number of months by the Department for Infrastructure for that very purpose, to avoid rocks coming from the high ground above that on to people walking through the car park. I am afraid we have a responsibility as States departments to make sure that when we are advised that there is an inherent danger to members of the public that we take steps to remove that danger.

3.6.5 Deputy J.M. Maçon:

If the Assistant Minister does not think that the memorandum and articles are the way to do this, while I appreciate the Ports authority has now accepted that a different approach is needed, the individuals in post, of course, are only temporary. Can the Assistant Minister suggest what could be done in order to make the protection of the public realm, of lands owned or organised by Ports ... that the protection of the public realm is ... there is agreement on an ongoing basis that that type of thing should be protected? Do we need something in writing? That is what I am trying to get at.

The Connétable of St. Peter:

The Deputy makes a good point there. I certainly am quite happy to undertake to raise this matter further with Ports of Jersey. Whether there is a requirement for them, although in many cases they do not require planning permission for some works, I do not consider it to be inappropriate that the Minister for the Environment would be advised of works they intend carrying out to ensure that he on our behalf is happy with them.

3.7 Deputy G.P. Southern of the Chief Minister regarding his proposals to reform Jersey's tax system: [1(647)]

Given Jersey has been placed on the E.U. (European Union) "grey list" of tax jurisdictions, will the Chief Minister explain how he proposes to reform Jersey's tax system to ensure, for example, that the tax regime does not facilitate offshore structures which attract profits without real economic activity? Will he state further which company structures he proposes should be affected by any such reforms?

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

Jersey has committed to the O.E.C.D. (Organisation for Economic Co-operation and Development) common reporting standard, to the O.E.C.D. multilateral instrument on base erosion and profit shifting and to the exchange of notes with the U.K. (United Kingdom) Government on sharing beneficial ownership information. This Government has an excellent track record of meeting international standards and will continue to do so. It would, however, be wholly inappropriate for me to prejudice our interests by speculating on solutions at this stage.

3.7.1 Deputy G.P. Southern:

In that case, far from speculation, will the Chief Minister lay out a clear timetable for the reforms required to meet the E.U. needs specifying exactly what each change might be and when it might happen? Will he do that?

Senator I.J. Gorst:

The Deputy will be aware that I am due to make a statement later this afternoon on this issue. With that statement, I will be including a copy of the letter that I have sent to the chairman of the Code of Conduct Group together with a timeline of working together and entering into dialogue with the code group to address their concerns, something which is wholly different from what the Deputy is trying to suggest.

The Deputy of Grouville:

Sir, perhaps you can help me with this or the Chief Minister. Is there such a thing as a grey list? Because if there is not, surely the question is hypothetical.

The Bailiff:

Well, it has been put in inverted commas and is, therefore, something closer to a euphemism, not quite on the white list as I understood it.

Senator I.J. Gorst:

Of course, I am not the one that authorises questions. There is no grey list.

The Bailiff:

Sometimes I am not either.

Senator I.J. Gorst:

I have been quite clear there is a black list. The Deputy should know that but, of course, he is siding with our detractors by trying to refer to it as such.

3.7.2 Deputy M. Tadier:

In a previous answer by the Chief Minister, he stated that there are circa 45,000 companies considered to be resident in Jersey and he goes on to say that data was available in respect of 13 per cent of the companies considered to be resident in Jersey.

[15:15]

If we do not know what profits are made and where by 87 per cent of companies in Jersey, how can we perform due diligence and sharing information when we only know about 13 per cent, not the other 87 per cent?

Senator I.J. Gorst:

I believe we are following international standards around country-by-country reporting and the B.E.P.S. (base erosion and profit shifting) agenda, and that is what we will continue to do. We are meeting those requirements for the exchange of profits information. We are meeting the requirements under the common reporting standard for exchange of information automatically and, of course, we are gathering more and more information around these issues as well to ensure that we can deal with questions as they arise. But the Deputy should know that the concerns are around trading companies and not investment holding companies. It is that area where we will be working, I think, particularly with the E.U.

3.7.3 Deputy G.P. Southern:

Despite his false allegations, I would put to him the question to respond as to what future he sees for the Zero/Ten tax policy since the E.U. Code of Conduct Group (Business Taxation) are now very clearly signalling it is unacceptable to them. We have ducked this issue once when we went to Zero/Ten. Does this not mean the end of Zero/Ten one way or another?

Senator I.J. Gorst:

I would have expected that the Deputy had read the documentation as he has asked a question on it. He will know that there is a gateway in the screening process criteria which is around zero, but he will also know that it was not a criteria in itself. The criteria was around economic substance and that is the commitment that I have given because, as I have said in this Assembly previously, as I have said in the public domain, work around economic substance is already undertaken by the regulator when it is issuing a licence to a regulated entity. We will also explore notification regimes as well. That is not about the zero, but yet again the Deputy will groan and shout at me across this Assembly but he sides himself with our detractors who suggest that we are not meeting the relevant international standards that shows a lack of understanding of what happens in our financial services industry. I do not think that is acceptable.

Deputy G.P. Southern:

Sir, can I have a ruling on his I believe intentional impugning of my integrity saying that I line myself up with our opponents?

The Bailiff:

Deputy, I do not see that as being something which impugns your integrity. There will be people who are detractors of the Island who might be right in that and there will be people who are detractors of the Island who might be wrong in that. This is a matter for political debate.

Deputy G.P. Southern:

I thank the Chair. I am very relieved.

3.8 Deputy M. Tadier of the Minister for the Environment regarding actions taken following the death of a dog subsequent to the ingestion of phorate: [1(652)]

Sorry, Sir, I was just pondering other issues; excuse the delay. Further to an incident earlier this year in which a 10 year-old Japanese Spitz died after ingesting phorate at Les Creux Country Park, what further steps, if any, will the Minister take to ensure the possibility of such incidences recurring are minimised in the future?

Deputy S.G. Luce of St. Martin (The Minister for the Environment):

The incident this summer that caused the death of a dog as a result of it consuming a banned pesticide was, indeed, a very tragic one. My department and I place great importance on the safe sale, use and storage of pesticides and we investigated this case and searched the area where the dog was walked but did not find any sign of old containers or pesticides. We also checked historic pesticide records and stores in the area for signs of phorate, the pesticide that killed the dog, but again did not find anything. While we do not believe there is anything other than an extremely small ongoing risk to pets, we advise dog owners and walkers to remain vigilant and report any concerns they may have to my department. States Members may also be aware that the department's pesticide amnesty, which following the death of the dog we readvertised, has allowed members of the public to bring out of date and revoked pesticides into the department without fear of prosecution. I believe the current wide range of audits and enforcement activities we undertake to ensure that risks from pesticides are minimised to be adequate and appropriate. While this type of incident is very sad, it is fortunately also extremely rare.

3.8.1 Deputy M. Tadier:

Can the Minister confirm, if not now by circulating the information, as to what levels of the chemical phorate were in the dog's system? Has he ruled out that the case may have been malicious?

The Deputy of St. Martin:

I will attempt to find out the level of phorate that was used in the poisoning. I cannot rule out or rule in anything particularly. I did do some research. Obviously, our States vet was heavily involved in this. The animal was tested twice to make sure and ascertain correctly that phorate was indeed the chemical that was used. This is a chemical which was banned in 2003. So it is still a mystery to my department as to quite how this dog happened unfortunately to be poisoned by it. It is a chemical when applied on ground and in the air it usually disperses within 2 to 3 weeks, so this case is still a mystery to us.

3.8.2 The Deputy of St. John:

When the press release came out from the department with regards to this, I was quite astonished that the department stated that they think there is no future threat of this phorate coming forward, so I questioned the department further. I need to ask the Minister whether he thinks the Pesticides (Jersey) Law 1991 is sufficient for the ability for his officers to investigate and whether there is sufficient resource to carry out the relevant roles.

The Deputy of St. Martin:

The current pesticides laws are quite onerous. We adopt a list from the U.K. which we accept in Jersey is the approved list, but we regularly remove chemicals from this when they are banned or the licence expires. I would quote the recent case where I took the pesticide linuron off the list. So we have very rigorous testing of the chemicals we use. We audit very heavily every chemical which enters the Island. We have continuous dialogue with the people who sell it. People who use it have to be certified to buy chemicals from authorised dealers and the people who apply it have to be certified and use equipment which is calibrated for the purpose. I do not know what more we can do in this day and age, but I can only say to the Deputy back in 2003 we were not as stringent as we are now. I can only reaffirm that how this particular chemical - and again it was a mystery, which is why we tested for it twice - has even survived to this day in the Island is still a bit of a mystery.

3.8.3 The Deputy of St. John:

A supplementary: can I ask the Minister whether he thinks it appropriate that the department randomly inspects only 20 per cent of all pesticide stores annually and at that point removes out of date or revoked products and whether there is further work that the department could be doing to ensure that should this be some form of malicious intent they would be able to identify and investigate further?

The Deputy of St. Martin:

It is right to say that we only routinely look at 20 per cent of chemical stores on the Island, but I can say to the Deputy that if we have any inkling that something is not right we have obviously the ability to inspect spray records at a moment's notice. We have the ability to inspect spray canisters or containers at a moment's notice. Through the work of the Cleaner Water Group we are identifying areas. We are doing an awful lot more testing of watercourses. We are picking up chemicals that we may not have seen before and we go back and test. We have an excellent rapport with the industry but, of course, I have to say to the Deputy, if people want to hide things from us it is not a particularly difficult thing to do. Like anything, if farmers or anybody for that matter is

determined to hide a chemical away somewhere, that may well be done. But we make every effort we can. We reduce the 20 per cent to save on officer time but I could only reiterate to the Deputy that if we have the slightest inkling that something is out of order we inspect records and we speak to farmers immediately.

3.8.4 Deputy M. Tadier:

I am obviously asking this question on behalf of a constituent but as there are many dog lovers in Jersey it is, I think, germane to many of us. It seems to me that a dog would not naturally seek to eat phorate or a similar substance under normal circumstances. That means that it was probably either eating food that had been contaminated with the product or perhaps eating an animal which had subsequently died after eating the product. Either way, it suggests that there may have been some malicious intent and, if that was the case, would the department liaise and continue to do work to make sure that people are not acting maliciously in such cases?

The Deputy of St. Martin:

I am reassured by the fact that a number of dogs get walked in this area every day. In fact, I walk my own dogs there and I know it is an area that is heavily used. The fact that no other dogs appear to have suffered any ill effects in walking in this area is some relief to me, but I can only say to the Deputy that I understand his sentiments. He does not need to go into any more depth. I will speak to the States Vet about this and see if any further action needs to be taken.

3.9 Senator S.C. Ferguson of the Minister for Economic Development, Tourism, Sport and Culture regarding the cost to the States of R.N.L.I. lifeguards: [1(651)]

What was the cost, if any, to the States of the R.N.L.I. (Royal National Lifeboat Institution) lifeguards when they originally were employed and what is the current cost?

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

The Assistant Minister with responsibility for that sector will answer it.

Connétable S.W. Pallett of St. Brelade (Assistant Minister for Economic Development, Tourism, Sport and Culture - rapporteur):

I thank the Senator for the question and it really pleases me to give me the opportunity to highlight the incredible work that the R.N.L.I. lifeguards do on our beaches around the Island. **[Approbation]** To cut to the chase, the contribution made by the States of Jersey increases by R.P.I.X. (Retail Price Index excluding mortgage interest payments) annually once any changes in service increases or decreases have been agreed, but the contribution in 2011 when the contract was first taken out was £150,000. The contribution in 2017 was £222,644.

3.9.1 Senator S.C. Ferguson:

I wonder if the Assistant Minister could just clarify something because I did ask one of the civil servants and he said it was £276,000 a year.

The Connétable of St. Brelade:

I can only go by the information given to me by the officer that deals directly with the R.N.L.I. and the service here, and the figure I have in front of me here for 2017 is £222,644, which sounds correct to me because the figure in 2016 was £218,278.

3.9.2 Senator S.C. Ferguson:

I wonder then if the Assistant Minister would tell us when the contract is to be renewed. Will it be going out to tender? Would he like to just check the £276,000 question as well, please?

The Connétable of St. Brelade:

Doing the last bit first, I am sure that figure is correct because I was the one that signed the contract in 2015. So I am sure that that figure is correct. In regards to the tender in regards to the service that they offer, the contract I think is due to be reconsidered at the end of 2018. It is a 4-year period. At the current time no decision is made as to whether it will go out to tender, but all I will say is that when this service first moved from the States to the R.N.L.I. the service the R.N.L.I. took over faced a huge unfunded bill for investment in equipment and we relied on lifeguards from overseas. We now have all our lifeguards locally trained. **[Approbation]** In fact, we export our lifeguards around the world to do work elsewhere. I like that. I think it is good and I would like to keep that. No decision has been made in regards to whether it will be tendered out, but my own preference would be it stays local. We work with the R.N.L.I. who have provided an excellent service, as I say again, who provide equipment far and above the cost in regards to pounds, shillings and pence and who have just invested in a brand new facility at Bowmore, which I have to say, having visited it recently, is quite an investment considering what we pay each year for the service.

The Bailiff:

Final supplementary? You do not have to. It is not compulsory.

[15:30]

3.9.3 Senator S.C. Ferguson:

No, Sir, I would just like that £276,000 figure to be ... I appreciate that the Minister signed the last decision, but perhaps he would like to ask his officers just to check and make sure, please.

The Connétable of St. Brelade:

I am more than happy to. In fact, I have the contract here so I will personally hand it to the Senator while we are here and she can have a look at it.

3.10 The Deputy of Grouville of the Minister for Infrastructure regarding his policy on pursuing payments for encroachments on the foreshore: [1(641)]

Will the Minister state when his policy of pursuing payments for encroachments on the foreshore, which he claimed some months ago would be forthcoming, will be ready and advise whether it will include the date and maps he endeavours to use to identify any encroachments?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

I am pleased to inform the Deputy of Grouville and, indeed, other Members that I signed the Ministerial Decision earlier today approving the foreshore encroachment policy and the associated departmental procedures. The decision and accompanying report and the policy will be made available to Members and, of course, to the public in short order as soon as it can be uploaded on to the gov.je website. The policy and the associated procedures do not include dates and maps which may be referred to for identifying the encroachment.

3.10.1 The Deputy of Grouville:

I am rather astounded that a decision such as this is being taken just by the Minister and that land that was given to the Island from the Crown just 2 years ago is now being treated in this way. I would like ... well, like I say, I am just a little stunned at that answer. How does the Minister know

and, if he is not using maps and dates, how do people know when the encroachment may or may not have occurred?

Deputy E.J. Noel:

That is a very good question and I suspect that the Deputy may have been incorrectly informed if she understands that a map or maps exist which show a line or boundary line between the foreshore and private land. The upper extent of the foreshore is the high water mark and in all encroachment cases it is necessary to assess where the high water mark would have been before the encroachment took place. In some cases that is fairly straightforward but in other cases it is more difficult. In dealing with the foreshore encroachment since the early 1990s, Property Holdings and prior to that Property Services and the Law Officers' Department have retrieved and studied a number of drawings relating to the various parts of the foreshore, generally drawings from which seawalls were built. These drawings have often proved to be very useful in determining that the foreshore extended behind the seawall, which in most cases is the obvious reason as to why the seawall was built. Each encroachment case has to be studied on the best information available, which is reference to transactions, contracts, possibly drawings, possibly historic photographs and possibly historic papers such as committee acts. In our experience, it is very rare that a party which is suspected of encroaching can produce information to contest our belief that the foreshore has been encroached upon.

3.10.2 Deputy R. Labey:

The actions that have been taken on perceived encroachments and settled, is that in perpetuity? What implications does that have for plans in the future maybe to have a cycleway or walkway on the seaside, on the seawall from the Dicq to La Rocque?

Deputy E.J. Noel:

Firstly, I would like to correct the Deputy. There are no perceived encroachments. They were encroachments and they were proved to be such. The negotiated settlements around that vary from case to case. Some are in perpetuity. Some are shorter term agreements.

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

Just a question to the Minister. I think he said that people find it hard to prove against the ministry. So, is there an appeal system and, if there is, is it not just to the Minister? Because it just seems from what I heard him say it was a sort of *fait accompli*; our judgment is final.

Deputy E.J. Noel:

That is not the case. As I have explained in the Assembly before, all settlements with third party landowners are indeed those. They are settlements. They are negotiated settlements. So, there is no *fait accompli*. The criteria is should we do nothing if there is an encroachment identified; that is obviously not something that the public would want to do. Can the area be reinstated, i.e. remove the encroachment? If that is not the case or if there is good reason not to pursue removal of the encroachment, a negotiated settlement is made.

3.10.4 The Deputy of Grouville:

I cannot understand how the Minister is defining the encroachments. If you take, for example, Victoria Avenue, the Esplanade, the Weighbridge, that was our seafront. So, the whole of the Waterfront, the way I see it, is an encroachment, so will he be going after Ports of Jersey and fining them as he is doing to private landowners in other areas? It does not only affect St. Helier. It affects all round the Island. I really do not understand how he is able to get away with this, how he is able to fine people for encroachments when there is no date and there is no map. I look forward to further explanations.

Deputy E.J. Noel:

Now that the policy has been finalised, I repeat my invitation to the Deputy and, indeed, any other Member who wishes to meet with my department and the Law Officers' Department, to go through the policy and the procedures and to go through how the Law Officers verify whether or not there has been an encroachment. I do not define myself, nor my predecessors or my successors. The Minister will not define what the encroachment has been. We take legal advice for that and it is the legal advice that we act upon. I believe the Deputy may have a misunderstanding with regards to the foreshore around the Port of St. Helier. That land was transferred from the Crown to the States for the States to be able to reclaim that land. That is the high-level "man in the street" version. I am sure that there is a more legally precise definition of what took place, but there was no encroachment of the foreshore because it was ourselves that took up that opportunity to reclaim that land.

3.11 Deputy S.Y. Mézec of the Chief Minister regarding the prospect of an independent public inquiry into the sacking of the R.N.L.I. coxswain: [1(654)]

Following comments made to the Assembly by the Assistant Chief Minister, Senator Routier, and a public statement he released in April about the prospect of an independent public inquiry into the sacking of the R.N.L.I. coxswain, what progress, if any, has been made in setting up this inquiry?

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

I ask the Deputy of St. Martin to answer this question, please.

The Deputy of St. Martin (The Minister for the Environment - rapporteur):

Since the time when Assistant Chief Minister Senator Routier was asked by the now former lifeboat crew in April to investigate, we have spent considerable time talking with many people, including the crew representatives, the Royal National Lifeboat Institution, Coastguard, the Harbourmaster, Ports of Jersey and many others. We have emphasised to the R.N.L.I. the importance of having a crew with local knowledge at all opportunities. The outcome of our investigations has resulted in acceptance by all parties and all parties recognise that they had had the opportunities to intervene earlier in relations that have now deteriorated over several years. We established that there was a desire to acknowledge and move forward. On that basis, the coxswain was reinstated. As part of this reinstatement, all parties, Government, Ports of Jersey, the crew and the R.N.L.I., agreed that a fresh start would be made and a line drawn under the past. We are extremely disappointed that it has not been possible to move forward on this basis. However, if evidence is presented to Government that merits an independent inquiry, then we will pursue one. For the avoidance of doubt, to date no such evidence has been presented.

3.11.1 Deputy S.Y. Mézec:

A supplementary: I take it from that answer that the independent inquiry that was suggested earlier this year has not taken place and, as things currently stand, will not take place. I attended one of the meetings that has been hosted recently by the crew and those who are trying to set up an independent lifeboat service, who indicated that they still felt that there was value in having an independent inquiry and that they felt that it would help the full picture be better recognised, not just by them but by the public. Given this is such an important subject and where I think many people are quite divided on what the solution is, does the Minister think that there is still merit in having this public inquiry? Would he endeavour to propose such a thing?

The Deputy of St. Martin:

I am happy to agree with the Deputy. I have said on a couple of occasions in the very recent past exactly what the Deputy has just said. There are a lot of questions unanswered. People come to me and I know other politicians are asking questions. The answers are not forthcoming and maybe it is time that this evidence was put in the public domain. Quite what the title of the public inquiry will be I do not know. I have very little evidence to put forward to whoever runs that public inquiry and I think I will have to investigate further. Certainly, in answer to the Deputy's question, I absolutely agree. It is time we had some answers to many of these questions and I will see what I can do to bring that forward.

3.11.2 Deputy G.P. Southern:

It appears to me that the Minister has got things completely the wrong way round. He is saying bring forward some evidence and we will hold an inquiry. Surely it is an inquiry that brings forward the evidence and examines it. Is that not the correct way round when dealing with an inquiry?

The Deputy of St. Martin:

I have to say to the Assembly we have had 2 sorts of inquiries already in this case. There was the situation where the coxswain was suspended. There was an inquiry into that and the outcome of that inquiry eventually was the coxswain being reinstated. I know that the coxswain has asked for a record of that inquiry and he has received a redacted record. Members may know that he has now asked for the unredacted record but has been told that the institution have acted legally and they are not in a position to give him an unredacted record. I believe he is potentially pursuing that in other directions, and I have spoken to him about that on a number of occasions. I am not aware that that is moving forward. The second inquiry that has taken place was into an employee of Ports of Jersey. Again, this was a complaint that came from the ex-coxswain. That inquiry took place and was found that there was not any merit in it. Again, the coxswain had a meeting with the chief executive of Ports and that message was conveyed to him. So, we have had 2 inquiries thus far and I would like to see some more evidence to move forward. Again, I will take the sentiment of the Assembly on board and go away and see what I can do.

3.11.3 Senator S.C. Ferguson:

I know that the Minister is calling for evidence, but unfortunately the evidence is either redacted or unavailable because of freedom of information restrictions with organisations such as Ports. I think what people are asking for is a copy of the investigation by the R.N.L.I. and an investigation of the part played by employees of Ports, which is not available. Perhaps the Minister would like to consider this and perhaps talk to the chief executive of Ports and the board.

The Deputy of St. Martin:

Certainly, I am happy to do that. I do wonder if I will face a similar situation where a report may not be released to me. This was an internal inquiry. But I will take the Senator's sentiments away and see what I can do.

3.11.4 Deputy R. Labey:

I get that the Minister is promoting what seems to be the party line from the Council of Ministers that the focus is on getting a lifeboat up and running as soon as possible back out of St. Helier. But what about the focus on support and gratitude and honouring the work of Coxswain Hibbs and his crew? Because the public of Jersey seem to feel that the Council of Ministers are working in cahoots with Ports of Jersey and cutting the old life crew adrift.

The Deputy of St. Martin:

I can only reiterate what I have said to the Assembly in the past. The priority at the moment is to get lifeboats back in St. Helier.

[15:45]

I receive daily emails about the risks to mariners around our shores and the risks of not having an all-weather lifeboat in St. Helier. While the Harbourmaster is satisfied that while this is greater than it was; it is still manageable and we are doing everything we can to get that situation remedied. I have never had anything but complete admiration for the coxswain and his crew for going to sea in all sorts of appalling weather in the past and I have never ever said anything other than that. This is a relationship matter between the crew and the Royal National Life Boat Institution and, as I said in my original answer, we agreed some time ago now that situations, which could have been handled differently some years back, were not, and things have deteriorated since that point. But I can only say to the Deputy, at no time ever have they questioned the bravery and integrity of the crew and the coxswain in going to sea on our behalf to save people at sea has ever been in dispute.

3.11.5 The Deputy of St. John:

I would like to thank the Minister for providing a briefing to States Members last week. But I will reiterate my concerns now as to what I reiterated at that briefing. My view is that there needs to be absolute openness and transparency around this and our responsibility as a States Assembly or your responsibility as a Government in terms of holding Ports of Jersey to account to ensure appropriate conduct. I think openness and transparency in that matter is absolutely vital. So would the Minister ensure that any review, anything that happens with regards to holding to account the Ports of Jersey, is done in an open transparent manner so that everybody can see exactly the facts of what has happened in this case and everyone can have light of all sides of the story?

The Deputy of St. Martin:

I am not sure that I am in a position today to say to the Deputy that, yes, absolutely I will do that. But I can certainly guarantee to her that I will go away and do everything within my power to make that happen.

3.11.6 Deputy J.A. Martin:

I thank the Minister as well for his answers, but it is the public and it is about transparency and does the Minister not agree that, from the public and me, as a States Member, this is one of our fourth emergency crew, and if it had been any other, the police, the fire or the ambulance, and they had a dispute and we, or the States under a ministry, had gone out and asked for new volunteers, what would that look like and what does it look like? So this is what I am getting and can the Minister dispel this for me and the rest of the public once and for all because it is basically that is what I feel. Sorry, you did not ... we cannot work out if you were going out and were going to get another crew and you could not do this, as I say, with the police, the fire, or the ambulance. The whole Island would walk out. Does the Minister not agree?

The Deputy of St. Martin:

This is a very different situation where we have at the moment paid employees of the fire, ambulance and police force, but with the institution we have volunteers who are not paid. The institution is a charity, they provide lifeboats to this Island at no cost to us whatsoever. We are in a quite peculiar situation in a way ...

Senator S.C. Ferguson:

Can I just correct the Minister there please? Last year the Life Boat Guild raised something in the order of £496,000 a year, of which something in the order of £200,000 goes to run the Jersey

station and the rest of it is paid across to Poole. So I do not think it is fair to quite say that it costs us nothing.

The Deputy of St. Martin:

I am very sorry, but the Senator is not correct in what she has just informed the Assembly. She knows full well that monies that are collected in collecting boxes and donated in that way go to the general funds of the institution. Monies that are in a restricted bank account for the use in Jersey are left in wills ...

Senator S.C. Ferguson:

Sorry, I was talking about the money that is raised. I did not say it went into the specifically Jersey Poole account, it just goes over to the R.N.L.I. account, which is held in Poole.

The Deputy of St. Martin:

Moving on to the initial part of the Senator's question, I did explain to her last week that it is a free service. The institution have stations all around the country and parts of the coast where very, very few people live. Those few people can only donate a very small amount of money, yet they may still have a lifeboat, which costs millions of pounds to buy and hundreds of thousands of pounds to maintain on an annual basis. It is absolutely wrong to say that it is not anything other than a free service. I accept, and I have said this openly, this Island donates massive amounts of money to charities and the institution is no exception. But that is the way it is.

3.11.7 Deputy S.Y. Mézec:

I think from the questions that have been asked in this Chamber and the strength of public feeling, it appears to me that there is an appetite for some sort of inquiry to find out exactly what happened so that we can move on effectively. Could I ask the Minister, when was the last time he spoke specifically about the issue of an inquiry with the former crew and coxswain and, if that was not recently, would he be prepared to speak to them again about this to find out why they feel an inquiry is necessary. He has spoken in previous answers about needing evidence before having an inquiry; well they may well be able to give him that evidence if he is prepared to speak to those. So would he be prepared to have that conversation with them? I am sure that myself and other Members of this Assembly would be more than happy to facilitate that discussion.

The Deputy of St. Martin:

To my best recollection, the last time I mentioned this to the ex-coxswain was probably 2, maybe even 3, weeks ago now in a message where I did say to him that I was not sure if the best way forward now was a public inquiry. I am quite happy to take the message from the Deputy and I will contact the ex-crew and the ex-coxswain again and ask them again if there is any evidence that they can provide, which I can use, and if that is not possible I will continue to pursue a direction of travel as regards a public inquiry.

3.12 Deputy G.P. Southern of the Chief Minister regarding the impact of governmental public sector pay policies: [1(653)]

Following the adoption of his Government's policy of wage freezes and restraints since 2009 for public sector workers, which resulted in real terms loss in earnings of 7.5 per cent, will the Chief Minister advise whether his modernisation offer will leave those employees on average a further 7 per cent worse off in real terms, meaning a real terms loss of 15 per cent in earnings from 2009 to 2020?

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

Public sector workers have not experienced a real terms loss in earnings of 7.5 per cent since 2009. Furthermore they are not expected to experience a 7 per cent real terms loss as a result of workforce modernisation. Instead we are seeking to proceed on a reasonable and affordable path, which delivers a fairer, more sustainable and more flexible approach to our workforce.

3.12.1 Deputy G.P. Southern:

Straightforward denial of clear facts. Is it not the case that his department's financial forecasting body has said that the inflation is likely to be 3 per cent or above for the next 4 years and is it not the case that the average percentage award brought about by modernisation is 5.4 per cent? 5.4 per cent as against 12 per cent, is that not... or does he deny that black is black? Is it not the case that is at least a 7 per cent cut in real terms?

Senator I.J. Gorst:

I think this is probably the fourth, if not the fifth time, that Deputy Southern and I have argued on these percentage figures across the Assembly. If he would like to show his workings or come and we will compare statistical numbers, then I am more than happy to do that and it might be more productive than just arguing across the floor of the Assembly because the figures he quotes are not the figures that I have been provided with.

3.12.2 Deputy M. Tadier:

Perhaps the Chief Minister can give us the figures that he has been provided with now in a public domain so that the public can hear, including the employees affected.

Senator I.J. Gorst:

I am quite happy to do that. I do of course accept, as I have accepted previously, that there is a real terms loss since 2009 - but not the 7.5 per cent - a 4 per cent loss. When it comes to the workforce modernisation, there are many public servants who keep our Island running, like ambulance staff, nurses, youth workers and manual workers, who will see an increase in their pay of between 7 and 22 per cent.

3.12.3 Deputy M. Tadier:

Could the Chief Minister state how he arrived at the 4 per cent? Is that an average across the board; is it a median, is it a mean, could he explain further about the 4 per cent figure, which is at variance with our 7.5 figure?

Senator I.J. Gorst:

That is the reason that I made the offer that I did earlier that there are a number of underlying numbers that arise to the differential in numbers and it might be useful for us to have that conversation and then we can stop arguing about numbers and we can accept a number, which I think will make the point the Deputy is trying to get out, he is just trying to use a different number.

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

Will the Chief Minister tell the Assembly whether he feels he has a workforce with high morale, when they have already lost 4 per cent according to his own figures, and 7.5 per cent of the figures just explained here? How can he have a workforce with high morale and work with him to modernise the workforce when what is being contemplated are even further cuts?

Senator I.J. Gorst:

£47 million extra is not a cut and many employees, as I have said, front line staff, something that the Deputy asking the question, the Deputy who has just done the follow-up question, I would have thought would be supporting. It is largely civil servants and officials that will see much lower

wage growth over the period of modernisation, but front line staff will see in some cases substantial increases. I would have thought both of those Members would be supporting that rather than being critical of it.

3.12.5 Deputy M.R. Higgins:

The Chief Minister is waffling as usual. The fact is that they have been pursuing for a while a policy of trying to reduce the pay of certain States groups because they believe that they are overpaid. In fact even in my own time in the public sector it was going on then. Will the Chief Minister not confirm that they are pursuing this policy, not only because they do believe some pay groups are paid too much, and will he identify them and say how much he wants to get their pay down?

Senator I.J. Gorst:

The Deputy knows that part of this programme is about equal pay for equal value, and those areas that I have just described will see quite substantial pay increases. Those are people on the front line; they should receive substantial pay increases. I know that the Deputy and the original mover of this question would like to paint us as uncaring, everybody getting the same, cuts, cuts, cuts, and yet they know that is absolutely not true; more money for health, more money for health employees, more money for people on the front line. Let us have a conversation about the numbers, quite prepared to do that.

Deputy M.R. Higgins:

A point of clarification, our Chief Minister mentioned he believes equal pay for equal work. Does he agree that women should be paid exactly the same as men?

The Bailiff:

That is not a point of clarification; that is a further question, and we come to the Deputy of St. John.

3.12.6 The Deputy of St. John:

If the Chief Ministers figure is 4 per cent and not 7.5 per cent and his figures for the modernisation offer are an uplift of 7 to 22 per cent for certain workers, could he advise what the real terms loss is in earnings from 2009 to 2020 if any at all?

Senator I.J. Gorst:

I do not have all those detailed figures with me but I would be quite happy to provide those to the Deputy.

3.12.7 Deputy G.P. Southern:

Can the Minister offer an explanation of why, when his own figures given some 2 months ago about the pay awards for public sector workers revealed a figure of 7.5 per cent below inflation between 2009 and today, and that his own figures suggest that the percentage average change in the modernisation programme is 5.4 per cent as against some 12 per cent in inflation, how come he arrives at any other figure than 15 per cent change in real terms downwards for public sector workers? That is the case, is it not?

[16:00]

Senator I.J. Gorst:

The Deputy knows I cannot accept his figures. I do not have my calculator with me this afternoon and the detailed tables, but I am of course, as ever... I enjoy doing that sort of thing, quite prepared to sit with him and we can do the calculations and agree on a number.

3.13 The Connétable of St. John of the Minister for Health and Social Services regarding changes to the acute services planned to be available in the new hospital: [1(643)]

Further to his answer to the written question 1(175), will the Minister advise whether any changes have been made in respect to the acute services, which it is planned will be available in the new hospital?

Senator A.K.F. Green (The Minister for Health and Social Services):

There have been no changes since that written question was answered.

The Bailiff:

Deputy Higgins, we passed over your 2 questions, the first one was question 6, which you will ask of the Attorney General.

3.14 Deputy M.R. Higgins of H.M. Attorney General regarding ultimate responsibility in instances where a civil action was brought against a Centenier: [1(655)]

Will Her Majesty's Attorney General advise who, in instances where a civil action is brought against a Centenier, is ultimately responsible for the actions of the Centenier acting in either their prosecutorial role or policing role?

The Attorney General:

Taking first the Centeniers' policing role, the Constable of the Parish is liable under Article 22 of the Honorary Police (Jersey) Law 1974 in respect of civil wrongs committed by members of the Honorary Police of the Parish in the performance of their functions. This liability is on the same footing as the liability incurred by an employer in respect of civil wrongs committed by his or her employees in the course of their employment. Any proceedings in respect of a claim made under Article 22 must be brought against the Constable or, in the case of a vacancy, the senior officer of the Honorary Police for the time being. In relation to the prosecutorial role of the Centeniers, under the 1974 law the power of the Centenier to charge is confirmed without prejudice to the powers of the Attorney General in the prosecution of offences. The answer tabled on 1st November last year to an earlier question from the Deputy made clear that any failure on the part of a Centenier in respect of his or her role as prosecutor will be considered and determined by the Attorney General pursuant to his supervisory role over the Honorary Police and customary law or his functions under the Police (Complaints and Discipline) (Jersey) Law 1999 and the Police (Honorary Police Complaints and Procedure) Regulations 2000. But to the extent that the civil action may arise from an act or omission of a Centenier in his or her role as a prosecutor, Article 22 of the 1974 law also applies, and therefore the Constable is also liable. So in relation to civil claims arising out of either the prosecutorial or policing function, the proper defendant to a civil claim is the Constable of the Parish.

3.14.1 Deputy M.R. Higgins:

Supplementary: is that still the position, since we changed the law regarding the role of Constables as part of the Honorary Police? Secondly, what if Constables are disavowing that they have any liability as is the case in one case I am aware of?

The Attorney General:

The law remains unaffected by the change in the nature of the Constables' function in respect to policing in 2012. In the case of any disavowal, it is right to say that under Article 22(4) of the 1974 law a Parish may, to some extent, as the Parish Assembly think fit, pay any damages or costs

awarded against a member of the Honorary Police. So in circumstances where the Constable was reluctant to do so, the Parish Assembly could refuse, it appears, to indemnify the officer concerned.

3.14.2 Deputy M. Tadier:

Have there ever been any civil action cases brought against the Constable in such cases?

The Attorney General:

I am unable to answer that question. I would be surprised if there had not been and I know that the Parishes are insured in relation to such claims.

Deputy M.R. Higgins:

I will leave it at that for the moment.

3.15 Deputy M.R. Higgins of the Minister for Home Affairs regarding the role of the Jersey Police Complaints Authority in supervising complaints made against the police: [1(656)]

Further to her responses to earlier questions on this subject, will the Minister explain how a member of the Jersey Police Complaints Authority appointed to supervise a complaint made against the police undertakes that role, once appointed?

The Deputy of St. Peter (The Minister for Home Affairs):

As confirmed in the response to written question 9(725) in 2016, the role of the Jersey Police Complaints Authority in supervising investigations into complaints regarding the conduct of police officers is as set out in the Police (Complaints and Discipline) Law 1999, in particular Articles 9 to 13, for the States of Jersey Police Force and 23 to 26 for the Honorary Police. Further detail as to how the J.P.C.A. (Jersey Police Complaints Authority) undertakes its work was also provided in response to written question 382 of 2017. I think the Deputy is also aware that the Police (Complaints and Discipline) (Jersey) Law 1999 and associated legislation is currently under review.

3.15.1 Deputy M.R. Higgins:

Supplementary: can the Minister, in plain English, without quoting sections, tell us what the role is of the person appointed by the chairman of the Independent Police Complaints Authority, say what the role of the individual is as part of overseeing the investigation? That was the question.

The Deputy of St. Peter:

I have directed the Deputy to the relevant Articles of the relevant law, which have been in the past put in the public domain in an answer to the Deputy in the form of the written questions that I have just identified. I do not really understand what more the Deputy wants.

3.15.2 Deputy M.R. Higgins:

Let me put this to the Minister then: my understanding of the role of the person who is appointed to oversee the police investigation is to make sure that a proper investigation is carried out. How can that be done? How can the person who is supposed to be overseeing the police sign off a report where the police have not taken a statement from the person who brought the complaint and did not interview the person who brought the complaint? How can that be considered an adequate investigation and yet the person who is named as the reviewing person failed to do that job? Does the Minister think that is acceptable that the police do not question the individual, do not take the statement, basically did not do their job?

The Deputy of St. Peter:

It appears the Deputy is referring to a specific case and of course I do not have knowledge of the case that he is referring to, so it is rather difficult to respond in a full and frank way. I am aware that the previous chair of the J.P.C.A. has offered to meet with the Deputy on many occasions. He has never taken her up on that offer, and I am sure that the current chair would also extend a similar invitation. Likewise I would be happy to meet with the Deputy if he wishes to raise a specific point.

3.15.3 Senator S.C. Ferguson:

Would the Minister like to confirm that although the complaint is made to the Police Complaints Authority, the undertaking of the investigation is done by the Professional Standards Department of the Police and that, on occasion, the officer about whom the complaint has been made has written to the complainant to explain that the complaint has not been upheld, which seems a little odd certainly, but basically the Complaints Authority merely sub-contract the investigation to the Police Standards Authority?

The Deputy of St. Peter:

There are many points to make there. Firstly, as I pointed out in my original answer, the law is being reviewed at the moment and I am sure that there may be some changes falling out of that to the way that the work of the Police Complaints Authority is undertaken, but of course I cannot put the cart before the horse. Secondly, it is correct that the role is an oversight role currently, but I am very grateful to the members of the Police Complaints Authority who are intelligent independent members of our community who assist us by undertaking this work.

3.15.4 Deputy M.R. Higgins:

I will come to the Minister with information, and I will ask her to look into the matter. If she will review what the Independent Police Complaints Authority are doing or fail to do, would you investigate that matter if the evidence was brought to you because there was a total failing all around? Secondly, I am not aware of the offers to see the former head of that body. If you have the information I would love to see it and I would love to meet with ...

The Bailiff:

Through the Chair.

Deputy M.R. Higgins:

Through the Chair. Thank you.

The Deputy of St. Peter:

Yes, of course, I would be delighted to meet with the Deputy.

The Bailiff:

It might be convenient I think to take the urgent oral question before the questions to Ministers without notice. I am not quite sure why it is listed there. So the Connétable for St. John, would you speak to that?

4. Urgent Oral Question

4.1 The Connétable of St. John of the Chairman of the States Employment Board regarding payslips for weekly paid manual worker employees:

Will the chairman explain why payslips are not being given to weekly paid manual workers in accordance with the Employment (Jersey) Law 2003?

Senator A.K.F. Green (Chairman, States Employment Board):

The process for weekly paid employees has not changed, it is compliant with the Employment (Jersey) Law 2003, and there is no reason why employees should not receive their payslips. Currently weekly paid employees receive their payslip at or before the time that the payment of wages is made to the employee in one of 2 ways, email in a PDF version or hard copy sent by post to a home or work address as requested by that employee.

4.1.1 The Connétable of St. John:

It was the spouse of this individual that approached me and on further investigation that employee is not the only one, another employee was informed: "It is in your email", to which he said: "I do not have an email." So I know of at least 2 manual workers who have not received their payslips last week; neither of them possess computers or have email access and they have both been informed that it is in their emails. As they do not have emails, how has that occurred?

Senator A.K.F. Green:

As I said, in addition to the email version, a hard copy is sent if the employee requests it by post either to their home or work address. If the Constable gives me those names, I will make sure that is put right and apologise to the individuals.

4.1.2 The Connétable of St. John:

I regret I will not betray the confidentiality of people who have come forward, but I will however discuss with them and ensure that they do get their payslips so they can come to you for the relevant apology in due course.

Senator A.K.F. Green:

Can I suggest, I understand the Constable's reluctance, I was not suggesting he gave me the names today, but can I suggest that he advises them to speak to their line managers and request a hard copy as per our procedure?

The Connétable of St. John:

They have both done that and were both informed it was in their email.

5. Questions to Ministers without notice - The Minister for Home Affairs

The Bailiff:

We now come to questions to Ministers without notice. The first question period is the Minister for Home Affairs.

5.1 Deputy M. Tadier:

Because of the inability of the Minister for Health and Social Services to act swiftly when it comes to medicinal cannabis for people in particular who might suffer from spasticity, M.S. (multiple sclerosis), vomiting from chemotherapy, fibromyalgia, *et cetera*, these individuals either have to choose to go without medicinal cannabis or to break the law in order to procure it for their specific purposes. Will the Minister explain whether she is likely to advise the police, while the Minister continues to delay it in the Health Department, that they should not prosecute individuals who are using such drugs for medicinal use?

The Bailiff:

That is not a question for the Minister to deal with, who is prosecuted, Deputy.

[16:15]

Deputy M. Tadier:

The Minister is responsible for the police I believe and ...

The Bailiff:

She is not responsible for prosecutions.

Deputy M. Tadier:

No. So I am not talking about prosecutions, but obviously the police are responsible ...

The Bailiff:

You were.

Deputy M. Tadier:

... for applying discretion as to whom they arrest and whom they investigate, so that should be my question. If I mentioned prosecution ...

The Bailiff:

I understood you to ask about prosecution.

Deputy M. Tadier:

I am asking about the attitude that the police apply and the discretion they apply to those medicinal users potentially of cannabis.

The Deputy of St. Peter (The Minister for Home Affairs):

I am afraid that I cannot be any more helpful myself because it is not the role of the Minister to direct the police in their operations either.

5.2 The Deputy of St. John:

The Minister for Home Affairs has recently lodged the Criminal Procedure Law. Within the Criminal Procedure Law it is suggested that they have given the Home Affairs and Education Scrutiny Panel a briefing on this law, which I do not believe that the panel have had. Could I ask the Minister that we ensure there is a briefing had on this particular legislation and whether she thinks it is appropriate for a law, which is updating 150 years' changes to the criminal justice system, that we debate this on 16th January?

The Deputy of St. Peter:

I can only apologise to the Deputy if that Scrutiny briefing did not take place. I was under the impression that it had and so I will ensure that one does take place because I am sure the Deputy, with her excellent memory, would have recalled it. It is a large piece of work that has been waited on for a long, long time, and there has been a consultation period. I noted there have not been a great number of responses to the consultation, but those that did respond were thorough and well thought through and I am sure we can go through that with the Scrutiny Panel as well. So without wanting to go on too long, the members of the legal community were also consulted to widely, as were the Criminal Justice Steering Board, in developing this Law.

5.2.1 The Deputy of St. John:

A supplementary: notwithstanding the fact that this has been consulted on, does the Minister not agree that there should be thorough scrutiny of line-by-line in terms of the legislation with this

particular law and ensuring that it is fit for purpose for the flexibility in the future of the criminal justice system?

The Deputy of St. Peter:

It is very important that Scrutiny is given an opportunity to conduct their role and particularly in terms of legislative scrutiny, which we often criticise ourselves for not conducting properly, and so I am happy to work with the Scrutiny Panel to ensure that they can do this.

5.3 Deputy S.Y. Mézec:

On the subject of medicinal cannabis as well, given the previous answers we had from the Minister for Health and Social Services indicating the difficulties there are with getting this through in the timetable we had anticipated, could the Minister indicate what discussions have been had with the Customs Service and what work they have done in anticipation of this going through to make sure that they are allowing these products into the Island and not accidentally taking them from Islanders who might be travelling with those products?

The Deputy of St. Peter:

The role of the Customs and Immigration Service would be something that would fall out of the work that is intended to be done, and the Minister for Health and Social Services was expressing his apologies I think earlier for not expediting this piece of work, which it is fully intended to happen. So that is a piece of work that would be conducted alongside and following any progress there.

5.4 Deputy G.P. Southern:

Has the Minister read the response of the Chief Minister to written question 309 in June of this year, which showed that prison workers and police were 7.5 per cent behind the rate of inflation over the period 2009 to 2016 and that, as a consequence of this loss to these workers, would she consider and make representations to the States Employment Board that they should be receiving more than 5.4 per cent average, which is applied in the modernisation process when uniformed branches engage with the modernisation process?

The Deputy of St. Peter:

I am always very keen to talk to the Prison Officers Association and others who work in the Home Affairs team, and I have done so in the past and if there is a problem I am sure that they would not hesitate in coming forward to me to raise that with me and I would indeed engage in conversation with them, but they have not as yet.

5.5 Deputy M. Tadier:

The Minister knows that there is a constituent in her Parish constituency who suffers from spasticity issues following paralysis, and what would she say to him and other people like him when the question is asked how long will he have to wait before he can legally use a product, which has clinically been demonstrated to be beneficial for him, without being criminalised? What steps will she take to expedite, both as a Parish Deputy but in this case as the Minister for Home Affairs, the work that is going on with the Health Department, which has already failed to meet its deadline for the end of this year in that regard?

The Deputy of St. Peter:

I think we can all feel sympathy for people who live in pain, and I think any Member would empathise with somebody in that situation so I will ensure that I help the Minister for Health and Social Services to push forward this piece of work and I will encourage him to do so.

5.6 Deputy M.R. Higgins:

Could the Minister explain what the Customs Department, under her remit, is doing with Her Majesty's Customs and Excise in the United Kingdom who are stopping parcels coming from Jersey, although they are below the figure for V.A.T. (value-added tax) and are gifts, they have been intercepting packages, in fact there was an account put in the *J.E.P. (Jersey Evening Post)* the other day - I have had one stopped - and there is absolutely no reason why they should be detaining this and, furthermore, Royal Mail is charging people £12 to release it as a service fee. We are supposed to have free movement of goods if they are below £35 and they are not subject to V.A.T. If the Minister does not know anything about this, will she look into the matter and query it with the U.K. H.M.R.C. (Her Majesty's Revenue and Customs)?

The Deputy of St. Peter:

I am afraid I did not know anything about this but I will, along with the Assistant Minister, who has delegated responsibility in that area, certainly look into it and get back to the Deputy.

5.7 Deputy G.P. Southern:

Further to the previous question: to what extent has the Minister engaged with fire, prison, and the police, over what terms and conditions might be changing in terms of modernisation of the workforce? What practices does she see changing, if any, at this stage?

The Deputy of St. Peter:

There has been an ongoing process with those bodies. The prison, that was before my time, but I have met with the chair of the Prison Officers Association and worked very effectively with him. I would always be happy to do so with our employees.

5.7.1 Deputy G.P. Southern:

The heart of the question was: are there any particular changes in practice that she is aware of that may be engaged in the modernisation process?

The Deputy of St. Peter:

I am not entirely sure what the Deputy is referring to in terms of changes in practice.

Deputy G.P. Southern:

To illustrate just a nonsense one, instead of being in charge of 2 prisoners, perhaps a prison officer might be in charge of 4 or 6 for a particular routine, whatever.

The Deputy of St. Peter:

It is a rather detailed and technical point but that is something that is done at a management level and, for example, the 2016 spending process, in order to make a cut in the department, I am just giving an example, there was ...

The Bailiff:

Minister, I really do not think you should be forced to answer a question, which one does not know where it is going, if I may put it that way.

Deputy G.P. Southern:

I was asked to try and exemplify because the Minister did not understand my question, so I was trying to be helpful. I know the chair might not consider it particularly helpful, but I thought I was.

The Deputy of St. Peter:

I will carry on with my example, shall I? So I have forgotten. **[Laughter]** The example was rejigging shift patterns in order to make a saving and that is done at a management level under the direction of the Minister.

5.8 Deputy M. Tadier:

With regard to prisoners who will be eligible to vote in the forthcoming elections, what work is being done in the prison to inform and identify those prisoners?

The Deputy of St. Peter:

I am not aware of what work is being done but I shall ensure that I ask the question because it is important that we engage with those who will be able to vote and, if I remember correctly, there will be some work with the Greffe in order to do so.

5.8.1 Deputy M. Tadier:

Does the Minister envisage or will she talk to P.P.C. (Privileges and Procedures Committee) about whether or not there might be a Senatorial hustings taking place at the prison or provision made for those prisoners who are eligible to vote to attend such a hustings?

The Deputy of St. Peter:

That is sparking a little grain in my memory and I do believe that I have heard talk of such a possibility taking place. But I will confirm that to Members.

5.9 The Deputy of St. John:

The Care of Children Review Panel were advised that there is a review currently being carried out with regards to youth justice and with regards to the Prison Board of Visitors situation. Can the Minister for Home Affairs advise what involvement Home Affairs are having in this review and what work is being carried out currently to support the Chief Minister and his work on the Care of Children?

The Deputy of St. Peter:

I missed the very beginning of the question but I think you are asking about youth justice review, so the Assistant Minister is on the Access to Justice Panel and she is taking an interest in that area.

The Bailiff:

Are there any other questions for the Minister for Home Affairs? Very well, that brings that part of the questions without notice to an end. We now come to questions for the Minister for Treasury and Resources.

6. Questions to Ministers without notice - The Minister for Treasury and Resources

6.1 Deputy R. Labey:

Is the Minister still seriously considering making higher education grants conditional on post-graduates returning to the Island? Because I find this an affront to the development of our graduates and that is what education is about, personal development. You cannot stunt that development by making this sort of requirement. It is so insular, if other nations were doing the same we might not be able to hire in when we need graduates from the outside.

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I am not making that suggestion at all. I am not quite sure, other than perhaps from some misplaced comments by the media that may well be the case. I think what I was referring to was

the fact that there have been or is a consultation process, which was commenced today. There are a number of issues being raised by the Education Department in regard to that, which will run for around about a month through until 12th or 14th I believe of January, at which point a decision will be taken as to any particular conditions or conditionality that will apply to the proposal for grant-funding higher education, which I think is a positive step forward. But certainly there is no suggestion that is going to be applied and certainly not by me.

6.2 The Deputy of Grouville:

Why did the Income Tax Department have to recruit senior members of staff from the U.K. to deal with local tax matters, and working with the department and this new cohort of accountants are now wasting many practitioners' times because they are quoting U.K. law and articles when writing to funds?

Senator A.J.H. Maclean:

The Tax Department is going through a transformational process at the moment. There has been a requirement to bring in additional staff. Indeed first and foremost there was an attempt to recruit locally, which was not successful, and so some staff were brought in largely on a temporary basis to backfill and support the Tax Department, which is struggling at the moment, in order to carry out its functions due to a lack of staff who are of appropriately quality in order to do this.

[16:30]

The Deputy of Grouville:

Could I ask a supplementary question?

The Bailiff:

I am so sorry, yes.

6.2.1 The Deputy of Grouville:

Yes. On that point about recruiting locally: does the Tax Department do anything to train up local accountants? I find it very difficult to believe that there are not local accountants - this place is awash with accountants - and that there are not appropriate staff members to fill these positions. Does the department do anything to train young local people?

Senator A.J.H. Maclean:

The Tax Department of course has a number of excellent staff. It is simply the workload that it is being asked to undertake with this transformational programme which is causing the problem. Yes, the development of staff is a key aspect within all States departments, including the Tax Department, to ensure that staff are properly trained. That work will continue as we move forwards.

6.3 Deputy K.C. Lewis of St. Saviour:

Further to the recent lowering of stamp duty in the last Budget, which is to be welcomed and could allow young couples to purchase their own homes, does the Minister not find this at odds with a proposed development tax, which according to the developers could put up to £10,000 to £13,000 on a house?

Senator A.J.H. Maclean:

There was not a reduction in stamp duty. I think the Deputy might be referring to the U.K., which made some alterations. Of course our own regime in terms of stamp duty is extremely generous and supportive of those trying to get on to the housing ladder, more so than the U.K. system.

6.4 Deputy S.Y. Mézec:

Could the Minister for Treasury and Resources indicate how much per year he anticipates the recent policy on higher education funding, uprating those grants, will cost and could he also tell us where the funding will come from?

Senator A.J.H. Maclean:

Approximately £7.5 million. That is based on an absolute maximum take-up of the grant system; so of course the modelling has taken the worst-case scenario in that respect. I do not view it as worst case, I see it as a very positive thing, because we will have all our students qualified, therefore having the ability to access higher education. In terms of how that will be funded, £3.5 million will be funded through the removal of allowances both to standard rate taxpayers and marginal rate taxpayers and the balance in the period 2018 and 2019 will come from underspends. Largely those underspends are in the Education Department, because of course the system as such at the moment is not allowing all the students to access the grants that are available, so there is an underspend there which will be utilised. If there is a shortfall, then it will be contingencies. From 2020 onwards, the Medium Term Financial Plan will need to find a sustainable funding mechanism going forwards for around about £4 million annum.

6.4.1 Deputy S.Y. Mézec:

The short answer to the second part of my question is that there is no long-term funding mechanism for this. Could he assure us that the funding for this policy will not be delivered by raising taxes on low earners or middle earners and can he also guarantee that the funding will not come from cuts to other public services that we rely on?

Senator A.J.H. Maclean:

There is a need for ongoing efficiencies across the States, full stop. That has been made clear. No, I am not talking, Deputy, about cuts, I am talking about efficiencies, which is first and foremost an important and embedded part of the public sector reform programme. The Fiscal Policy Panel has made it absolutely abundantly clear that we need to continue with that programme of delivering efficiencies in the public sector to ensure that taxpayers' money delivers value for money. That is the appropriate way forward. There is a strong belief that the funding for higher education, the figures that I have indicated, can be funded from within existing resources.

6.5 Deputy G.P. Southern:

Is the Minister aware of the answer to written question 309 of 6th June this year, which showed that his civil servants were 7.5 per cent worse off over the period 2009 to 2016 in real terms? Will he engage with his civil servants over negotiating with the States Employment Board over a further cut of 8 per cent, which is proposed for civil servants in the modernisation plan?

Senator A.J.H. Maclean:

The Deputy assumes that the workforce modernisation programme is going to lead to the workforce... he talks about my civil servants. In fact, they are our civil servants. Everybody who works in the public sector is funded by the taxpayer and delivers a very valuable service. I should say that the workforce modernisation programme does not automatically lead to a loss. In fact, there is a very small number of employees that are going to see a loss. There is a large section, particularly of those that provide essential front line services, that are going to see an increase as part of that particular programme.

6.5.1 Deputy G.P. Southern:

If I may: has the Minister studied the document produced under the name of *Workforce Modernisation* from the States of Jersey, which shows that civil servants in particular will receive a 3.3 per cent award for the next 4 years, to cover 4 years, when inflation will be 12 per cent? They will be 8.5 per cent further behind than they were in 2009. Is that not the case and will he engage with his civil servants?

Senator A.J.H. Maclean:

It is very easy for the Deputy to pick a small isolated example out of a substantial document, which is seeking to ensure greater fairness and ensuring appropriate pay for appropriate work. It is a step forward, the workforce modernisation package that is being presented, and I think that should be welcomed.

6.5.2 Deputy G.P. Southern:

Will the Minister reconsider his words when he says “a small group”? It is 3,229 out of 5,000 who have engaged in workforce modernisation. It is the majority of civil servants.

Senator A.J.H. Maclean:

The majority of the workforce are going to see a benefit. There is a small percentage that are going to see a detriment to their position.

6.6 Deputy M. Tadier:

My question to the Minister for Treasury and Resources follows from recent media coverage about Jersey ex-pats who are having to pay 20 per cent on their pensions living abroad. Would he be able to comment on the rationale for that, whether he thinks that is fair and whether he is taking any note of the recent remonstrations that have been put in the public domain on this issue?

Senator A.J.H. Maclean:

That was a measure which was approved as part of Budget 2016, if I remember correctly. It is the non-residents relief for an estimated 500 or so people who are living outside of Jersey who will no longer be able to claim that particular allowance. Of those 500, it is estimated that the vast majority will not see a direct impact because there will either be D.T.A.s (double taxation agreements) in place or indeed there are arrangements with foreign authorities whereby tax credits can be issued. There is, however, I accept, a small number of individuals who will be impacted. I think that is what the Deputy was referring to, because there have been one or 2 cases in the local media, which are being looked at by the tax authorities at the moment.

6.6.1 Deputy M. Tadier:

It is certainly not a policy that Reform Jersey voted for, even though it may have been in the 2016 Budget, but the Minister has not really answered the question why it was passed. What is the rationale and how can he justify the fairness, even if it is for a few individuals who are essentially seeing their income reduced, but they have been taxpayers in the past and they are not using local services? Surely that is completely and utterly perverse and unfair.

Senator A.J.H. Maclean:

It was first and foremost to try to simplify what was a very complicated system. There was of course a saving of around £500,000 to people who are living outside of the Island and claiming a benefit was resultant from Jersey. As I have said, it was included in the Budget proposals from 2016 and, as such, the number of around about 500 people who are likely to be impacted by it, only 20 or so were those that were identified as a particular case, which some of them have attracted some media attention.

6.7 Senator P.F.C. Ozouf:

Would the Minister confirm that following some constructive discussions regarding amendment 2 concerning the hospital funding debate that a revised amendment, which is shortly to be circulated to Members, which simply withdraws part of that amendment that I made - details of that later - has the Minister's approval and would he confirm that it is the proposition for the hospital debate which is being approved and not necessarily the actual report, which may change because of market conditions in the coming weeks before a decision on financial instruments are made? Is he content with where we have ended up?

Senator A.J.H. Maclean:

It is correct to say that I have had some constructive discussions with Senator Ozouf with regard to his proposed amendment. I would put one small caveat in, insofar as I know the Senator has circulated his draft amendment. I have not had an opportunity to read it yet, so I cannot give unconditional approval, but I would suspect if it follows the thrust of the conversations that we have had over the weekend, then I will be supportive of it. With regard to his other point, of course the report and proposition, the States generally approves the proposition. A report is therefore additional information. The Senator makes a valid point, insofar as market conditions could well change. If market conditions do change, then that would need to be a matter that would be considered.

6.8 The Deputy of Grouville:

Will the Minister accept a certain amount of responsibility for the aggressive and unnecessary tone of some of the letters sent out by the Income Tax Department? I had a 90 year-old constituent approach me this week in a state because of some I.T. (information technology) blip. I do know that some of the letters and communications that they do send out are unnecessarily aggressive. Does he take responsibility?

Senator A.J.H. Maclean:

Yes, I take all responsibility for actions that occur within my department, but the particular case the Deputy is referring to I clearly have no knowledge of. If she would like to share that, I am very happy to take it up with officers in the department because it does sound somewhat concerning.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chairman of the Privileges and Procedures Committee - statement regarding the Referendum Commission

The Bailiff:

Very well. No further questions for the Minister; there is only about a minute left, in any event. There is nothing under J. We now come to K, Statements on a Matter of Official Responsibility. The Chairman of the Privileges and Procedures Committee has a statement.

7.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

I would like to update Members on the appointment and work of the Referendum Commission. Members will recall that earlier this year, the Assembly adopted the Referendum (Jersey) Law 2017. The law was intended to ensure that referendums in the Island are held in line with international best practice, as set out in the Council of Europe Venice Commission Code of Good Practice on Referendums. One of the code's main recommendations is that referendums should be overseen by a permanent impartial body tasked with ensuring that referendums are fair and objective. One of the key provisions of our Referendum Law is therefore the establishment of the

Referendum Commission. The Commission has 2 key functions: first, to advise the Assembly on the proposed wording of a referendum question - indeed, a proposition for a Referendum Act cannot be lodged unless the Commission has published its opinion on the suitability of the proposed wording - and secondly, the Commission designates the lead campaign groups campaigning for each side in a referendum. The P.P.C. presented a report nearly 2 weeks ago to indicate its intended appointees to the Commission. Those appointments will take formal effect on Wednesday next. Nevertheless, the Commissioners have already met, a meeting they felt was vital in order to discuss the implications of the Assembly's recent decision that there should be a referendum on the role of Bailiff as President of the States. The Assembly has not yet made an explicit decision on when that referendum should take place. The question of timing was not addressed in the wording of the Chief Minister's proposition, as amended and approved. Nevertheless, it was apparent from the debate that Members have different views on the timing of the referendum and that some Members are quite strongly of the view it should take place at the same time as the elections in May 2018.

[16:45]

The prospect of a referendum in May 2018 has been considered by the Commission. It has set out its views in a letter to me, which I am circulating alongside this statement. Members will note the Commission's view is that it is unlikely the Commission could do a thorough job in meeting its responsibilities under the Referendum Law if the referendum were held at the same time as the elections in May 2018. The Commission has explained its reasons for this view. Put simply, the relevant Referendum Act must be adopted by 16th February 2018 for the referendum to be held at the time of the May elections. Given the Assembly's current meeting schedule and the provisions of Standing Orders in relation to lodging periods, this would require the Commission to have reported on the wording of the question by 2nd January 2018. That timetable is impractical. The Commission has highlighted measures that we could take as Members to address the situation. The Assembly could agree to reduce the lodging period for the Referendum Act and a special meeting could be requisitioned for mid-February. The Commission has noted that such action would help the situation, but that it would not, from the Commission's perspective, resolve the challenges entirely. Understandably, the Commission takes its responsibilities under the law seriously and wishes to do a thorough job in advising the Assembly on the proposed wording of the question. To do so would still be difficult, in the Commission's view, even with a reduced lodging period and a requisitioned meeting. The Commission has therefore explained that it cannot guarantee the timetable for a referendum in May and that it is not confident that it can be achieved. Members will note that the Commission has nevertheless anticipated Members may wish to have the option of a referendum in May 2018. The Commission is therefore exploring the practical feasibility of a referendum at that time, for example, by arranging focus groups, but it has stated that it can only endeavour to meet this timetable. There is evidently other work to be done in respect of the referendum and the proposal that the Bailiff cease to be President of the Assembly, aside from what the Commission is doing. Members should be aware that P.P.C. will itself be undertaking work. There are prospective legislation changes to consider and prepare to the States of Jersey Law and to Standing Orders and the Referendum Act itself needs to be drafted. P.P.C. will be undertaking this work to ensure that from Committee's perspective, Members have the various options available to them in terms of the referendum's timing. However, in light of the views expressed by the Commission, I think Members may need to prepare themselves for the fact that a referendum in May 2018 may not be practical. I understand the Commission is meeting again later this week to continue its work and discussions. I will ask the Commission to keep P.P.C. apprised of what is happening and I undertake to update Members as and when further information and advice from the Commission is forthcoming.

The Bailiff:

We have 15 minutes for questions.

7.1.1 Senator P.F.C. Ozouf:

I wonder if the chairman would address the issue of the referendum question, because the proposition that was adopted by this Assembly used the word “presidency” of the States. My concern was that the word “presidency” might not be understood. I mean no disrespect to Islanders or you, Sir, or any Members of this Assembly or anybody else, but it is the wording of a referendum that is absolutely vital and that is what the Referendum Commission would be asked to consider. Has the Referendum Commission, albeit in their draft form or their nascent form, considered the problem of the question and whether or not that question is going to be understood in terms of presidency and that automatically means “Speaker”? Because sometimes it does; it depends what language you are talking about and how you emphasise it.

The Connétable of St. Clement:

Of course. It is vitally important in any referendum that the public understand the question. This is why - one of the reasons why - we have created an independent Referendum Commission. Part of the role will be to advise us on how the question should be phrased and they will use the public to help them understand that by having focus groups and meetings with members of the public to get reactions for how the question might be fairly phrased. That is vitally important, not just in this referendum we are going to have in 2018, but any referendum; it is vitally important that the question is fair. However, at the end of the day it is down to the States, but the States will be advised by the independent Commission. They will be working on that as we work towards the referendum.

7.1.2 Deputy M. Tadier:

Effectively what the chairman is saying, it is down to a future States Assembly to decide on the referendum question, to approve it, and indeed whether or not the referendum goes ahead at all, and indeed whether or not additional matters could be added to the referendum for a more holistic question to be put to the public, if it is indeed put at all.

The Connétable of St. Clement:

I do not think that is quite what I said. What I have said is that to have the referendum in May would be challenging, but nevertheless the Commission will be working to advise us as to whether that would be practical, in enough time to give them the opportunity to do their work thoroughly and advise us thoroughly. At the same time, it will be down to the States to decide if that were to be practical from the Commission’s point of view whether the States wanted to reduce the lodging period for the Referendum Act and have a special meeting of the States on 16th February to debate it. There are 2 parts to that. It is up to the Commission to see if they can do the work and it is up to us, as States Members, to act on that work if we are going to have a referendum in May. At the end of the day, if it is in May or later, it will be the next Assembly which will make the decision. It is up to the States whether they accept the Referendum Act and it will be the States who decide, in whatever form they are, whether they accept the results of a referendum.

7.1.3 Deputy J.M. Maçon:

Does the chairman of the P.P.C. endorse previous reports by that committee which stress the importance of having a referendum question that is clear, concise and on one matter only?

The Connétable of St. Clement:

Yes.

7.1.4 Senator L.J. Farnham:

While fully respecting the independence of the Referendum Commission, I cannot really understand how difficult a question on asking whether we should keep the Bailiff in this Assembly or not is. It seems relatively straightforward to me. We all know that for a referendum to get the true public opinion, it needs to be held at a time when most people are likely to participate. That is at a general election. I know there might be some games here, because some Members might feel that by putting it off or by putting it back to another time, a lower turnout might produce a different result. From my point of view, and I know I share this with a number of Members, we think it is important that we try to do this at the next election. Will the chairman of the P.P.C. undertake to do whatever he can to ensure that is the case?

The Connétable of St. Clement:

Absolutely. The Commission have indicated that they are doing the work to try to give the States the opportunity to have the choice to have a referendum in May next year. They have indicated, however, that that might not be practical, but they are doing the work to try to give the States the opportunity to do that, if the States so wish.

7.1.5 Senator P.F.C. Ozouf:

Notwithstanding Deputy Maçon's question to the chairman, does the chairman have any sympathy with the view that a referendum which deals with the whole of the composition of the States Assembly, including its presiding officer and the membership of this Assembly, which has so bedevilled so many Assemblies, potentially has merit in not only being so important that it would get voter turnout high and would deal with effectively what is the overall issue of the composition of the States Assembly?

The Connétable of St. Clement:

The States have made a decision based on the Chief Minister's proposition, as amended, that the Bailiff should no longer be President of the States, subject to the public agreeing to such a thing, to such a move in a referendum. That is the only referendum we have before us. P.P.C.s in the past have tried to put propositions regarding the composition of the States before the public. The last time was when Deputy Maçon was chairman, I was on the committee, and we were going to put to the public the Clothier proposals, but no, that got hijacked as well by the then Deputy Green, who brought an amendment that it should just be simply on the Constables, when he knew what the answer would be and all of us knew what the answer to the referendum would be, so it was a waste of time and money. **[Approbation]** They did not give the public the opportunity of expressing their views on the Clothier proposals. If someone would bring a proposition that we do that and that was successful in the States, of course we would work to it, but the proposition we have before us, the proposition the States agreed, is there would be a single-question referendum on the Bailiff's presidency of this Assembly. That is all.

7.1.6 Deputy S.Y. Mézec:

Looking at this letter and reading between the lines, does the chairman not consider it the case that if we are to have a meaningful referendum which is in line with the Venice Commission's Code of Good Practice, where there is appropriate focus from the public and where resources are given to the public before the referendum, that in actual fact it is more than challenging to have it on election day, but that it is impossible, and that to arrange it, we would have to break so many rules and Standing Orders that it really would be inappropriate on an issue of such constitutional importance?

The Connétable of St. Clement:

On that question I will be advised by the Referendum Commission, which it is their job to advise me and this Assembly, and we will bring the appropriate Referendum Act at the appropriate time.

The Commission say it is challenging. I agree it is going to be challenging. I think they are prepared to make the effort and all I can do is keep the States informed as to what their views and opinions are on this matter.

7.1.7 Deputy M. Tadier:

Following on from a previous questioner, the context of course of this goes back to at least 2001 and the Clothier report. The chairman, I know, has long himself said publicly that the public have never had a choice on Clothier; they have never been able to vote on it. Is it perhaps the job of the P.P.C. to consider contextualising and expanding the question if it is put to a referendum, for example: “Should the full recommendations of the Clothier report from 16 years ago now be implemented, yes or no”?

The Connétable of St. Clement:

The States have made a decision on the basis of the referendum question. I do not want to bring forward another proposition, as Deputy Maçon did 4 years ago, to have that thrown out and then we have no referendum whatsoever. The public have been asked to make a decision on one issue only and that is the issue that the Referendum Commission are working on.

7.1.8 Senator I.J. Gorst:

I thank the chairman for his statement and the circularisation of the letter from the Commission. I want to follow up on the issue of best practice for referendums I think Deputy Mézec in his question asked about. I want to go one further. My reading - although it is only a skim read - of the Commission’s letter does not pinpoint that as an issue. I am very grateful for them wanting to do their work speedily in light of the Assembly’s decision, but I wonder if the chairman could revert to the Commission and ask for their opinion on whether pushing this decision forward, removing those barriers that they perceive, would comply with the Venice Commission’s Code of Good Practice, and moreover, whether it would comply with other international standards around holding referenda, which might help the Assembly inform its decision about whether it needs to have a special meeting or push it through speedily.

The Connétable of St. Clement:

There is no question that the Commission want to do their work thoroughly and following best practice. They will continue to advise the P.P.C. and the P.P.C. will continue to advise the States on what stage they have reached. But they want to be thorough, they want to be as professional as they possibly can be and to provide the right question at the right time for the public to consider.

7.1.9 Deputy M. Tadier:

3.3 of the Venice Code of Good Conduct of Referendums talks about funding and it says that funding must be transparent, particularly when it comes to campaign accounts, also that each campaigning party should abide by the cap on spending and that if that is exceeded the vote must be annulled. Can the chairman tell us if it is envisaged that there will be spending caps for each campaigning party during the referendum, and indeed whether funding will be made available, public funding, to each referendum campaign group as per the referendum code recommendation?

[17:00]

The Connétable of St. Clement:

That matter has not yet been considered by the Committee and will be included in the Referendum Act which comes forward in due course.

7.1.10 Deputy M. Tadier:

A supplementary: would the chairman ask the Committee to look into those issues particularly? Because it seems to me it is one thing to have a question, but the whole apparatus around that, if we do not have a fair and level playing field for all campaigns and meet best practice in other areas, it seems pointless, whatever the question put to the public, if it is not going to be fair and potentially could be challenged.

The Connétable of St. Clement:

That is absolutely right. There is no doubt in my mind that that is exactly what we would do. That is a given, as far as I am concerned.

8. The Chief Minister will make a statement regarding the publication of the European Union list of non-co-operative jurisdictions for tax purposes

The Bailiff:

Any other questions for the Chairman? Very well, we come to the next statement, which is to be made by the Chief Minister.

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

On Tuesday, 5th December, E.U. Finance Ministers at the meeting of Ecofin in Brussels approved the outcomes of the initial screening exercise conducted by the E.U. Code of Conduct Group on Business Taxation. The Code Group's assessment resulted in the production of an E.U. list of non-co-operative jurisdictions for tax purposes, known colloquially as the E.U. blacklist, and 17 jurisdictions have been identified as non-co-operative. Jersey, rightly, is not on that list. The Ecofin conclusions have confirmed Jersey's status as a co-operative jurisdiction engaged in a constructive dialogue with the E.U. and committed to complying with E.U. and international tax standards. This outcome reflects the Island's well-earned reputation for delivering the highest standards of tax transparency and information exchange. We have co-operated fully with the Code Group throughout their screening process, consistent with Jersey's pursuit of a good neighbour policy with the E.U. Jersey makes an important contribution to the E.U.'s growth story. The Island is a conduit for 188 billion euros of foreign investment into the E.U., excluding the U.K., equivalent to 4 per cent of the bloc's total net international investment. In addition, that investment supports in the order of 88,000 European jobs. The process followed by the Code Group initially identified 92 countries for screening. Following a table-top review, the Government of Jersey received tailored questions from the Code Group Secretariat in June and August 2007, to which we provided detailed responses. In November 2017, letters were sent to all jurisdictions informing them of the outcome of the Code Group's work. Where necessary, a political commitment was requested within a specified timeframe to address any concerns identified. The Code Group considered 3 sets of core criteria against which jurisdictions were assessed. The first was that a jurisdiction should fulfil to be considered compliant on tax transparency. This can be satisfied through commitment to the automatic exchange of information, membership of the Global Forum on Transparency and exchange of information for tax purposes with a satisfactory rating and signature and ratification of the O.E.C.D. Multilateral Convention on Mutual Administrative Assistance. Jersey satisfies all these criteria. The second set of criteria related to anti-B.E.P.S. measures being implemented. These criteria are satisfied by membership of the Inclusive Framework on B.E.P.S. Again, Jersey satisfies these criteria. The third set of criteria were those a jurisdiction should fulfil to be considered compliant on fair taxation. Concerns were highlighted by the Code Group that Jersey did not satisfy criteria 2.2 relating to the existence of tax regimes that facilitate offshore structures which attract profits without real economic activity. In order to maintain our status as a co-operative jurisdiction, I have made a written commitment to address these concerns by the end of next year. I have repeatedly said that Jersey is a jurisdiction of

substance and that the Jersey Financial Services Commission undertake certain economic substance tests prior to the approval of new regulated entities. Notwithstanding the positive work already being undertaken, I have made a commitment to discuss and address the concerns of the Code Group by the end of 2018. This work may include changes to our regulatory and legal framework and additional accounting and reporting obligations. We have already begun the necessary preparations to enact these measures, having regard to the Code Group requirements and Jersey's best interests. To ensure that this process will be completed by the end of 2018, the Government have produced a comprehensive timetable that includes consultation with industry, the publication of draft legislation and scrutiny and debate by this Assembly. That timetable is reflected in our most recent correspondence with the Code Group, which has been provided to States Members alongside the text of this statement. This is not a time for complacency. While the Island has achieved co-operative status, we must address the concerns of the Code Group within the agreed timetable. Ecofin has confirmed that the listing process is not a one-off, but that jurisdictions will be subject to regular assessments by the Code Group. We will be working to ensure that the Island's interests continue to be well-represented in Brussels. Since 2011, C.I.B.O. (Channel Islands Brussels Office) has provided a permanent presence in Brussels, representing the Channel Islands to the E.U. institutions. The work they have undertaken has been instrumental in our interaction with the Code Group and in ensuring that officials and representatives of the member states have an accurate understanding of Jersey's constitutional position and the regulation of our financial services industry. Alongside the Minister for External Relations, I will continue a regular programme of meetings in Brussels with representatives of the Commission, M.E.P.s (Members of the European Parliament) and the permanent representatives of member states. I should also emphasise that the Government has worked closely alongside the Government of Guernsey, in line with our joint commitment to engage in Brussels and to meeting international standards. The Chief Minister of Guernsey and I have travelled to Brussels on several occasions, including meeting with Pierre Moscovici, the European Commissioner for Economic and Financial Affairs, Taxation and Customs. I am certain that the close partnership between our 2 Islands will continue throughout our ongoing engagement with the Code Group and in other matters, including Brexit, in order to meet the common objectives of the Channel Islands. Jersey's reputation as a well-regulated and transparent jurisdiction that supports the development and implementation of international standards is of utmost importance to the Government of Jersey. In November, our commitment to meeting the highest international standards was recognised by the O.E.C.D. global fora when we were rated as compliant across all 10 areas reviewed, one of only 6 jurisdictions globally to receive this rating. We will continue to embrace the new rules that the global community identifies to address emerging risks and practices in cross-border finance.

The Bailiff:

Time to open the questions.

8.1.1 Deputy R. Labey:

I think the Chief Minister must be congratulated for leading the delegation to Brussels and negotiations on our behalf. **[Approbation]** I am quite certain that the Chief Minister simply does not get - whatever sometimes our political differences - the credit he deserves for his work ethic, the man hours he puts in and his energy on behalf of the Island and I am happy to pay tribute to him. **[Approbation]** I just wondered, has any work been done on estimating the extent to which the Island might be sailing close to the wind on the economic substance issue?

Senator I.J. Gorst:

I thank the Deputy for his comments, but any person in my position knows that it is the team that surrounds one, ministerial colleagues, but most importantly the officials that do all the legwork. It

is they that I congratulated, and congratulated last week, for all their hard work paying off. We have started now engagement with industry, setting up a high-level working group, together with technical and detailed working groups underneath. They will be tasked with understanding the financial implications of various measures that we will then go and discuss with the E.U.

8.1.2 Senator P.F.C. Ozouf:

Many people have suggested, including some Members of this Assembly, on regular occurrences in the last 10 to 18 years I have been here the end of the financial services and professional services industry in Jersey. A previous Senator, former Senator Cyril Le Marquand, used to apparently say: "Confidence is the name of the game." I wonder if the Chief Minister, based upon his statement, could give Islanders some confidence that he believes that the future for our professional and business services sector, on which this statement is made, and these adjustments that we made can be, with ongoing work, as good in the future as it has served us in the last 20, 30, 40 years.

Senator I.J. Gorst:

I thank the Senator for his question. As the previous questioner thanked me for my work in this regard, I thank the Senator for his work in supporting and building relationships around the globe which helped us arrive at the conclusion that the E.U. had last week. I am absolutely confident about our future. It is not blind optimism, it is based upon what I experience day in and day out from financial and business services professionals in our community and the conversations and engagement that I have around the globe with regard to what Jersey does and what Jersey does well. The overwhelming message that I receive is: "Chief Minister, when we engage with Jersey, we feel that we are engaging with the best. Continue with your policy of meeting relevant international standards, continue with being at the forefront of setting the standard." That is why, in my closing paragraph of that statement, I wanted to reiterate to Members and to the community at large it is not just me making political statements, it is what the O.E.C.D. peer review group say when they have reviewed us. These reviews are not easy, they are difficult, technical reviews. One of only 6 places across the globe: we have a future, we have a future that we can be positive about, but we must not take it for granted or be complacent. We must continue to meet those standards, engage with our detractors and show what we have to offer to the world. I will stop, Sir.

8.1.3 Deputy S.Y. Mézec:

We must not be complacent, but of course if you ask difficult questions, you will have your motives questioned on the floor of this Assembly. One of the countries that is on the blacklist is the murderous dictatorship of Bahrain, where the Chief Minister visited last year. This is a country that routinely murders people who speak out against the Government and abuses people based on their religion or their sexual orientation. Since being morally dodgy was not enough to give the Chief Minister cause to take another thought about whether we should be associating with them, does the fact that we know that they are financially dodgy give him to cause to think that perhaps we should maybe give it a rest engaging with dodgy countries like this?

Senator I.J. Gorst:

Sometimes political engagement in this Assembly is extremely gentlemanly - I am not sure what the appropriate word to describe gentlemanliness is - and that is as it should be. But for my part, there are times when I have to be absolutely clear, and when I hear Members of this Assembly parroting back to me what I hear from our detractors, I will say so. If I get criticised for it, that is part of political dialogue and we should call it as we see it. **[Approbation]** Members of this Assembly sometimes stand up time and time again and say one thing and then do another. I believe we have a financial services and business sector in this community that we can be proud of and we will continue to follow best international standards. When it comes to the issue of Bahrain that the

Deputy just referred to, he knows we follow British foreign policy. I was welcomed there and throughout my visit in Bahrain, I was escorted by the Head of the British Mission there.

[17:15]

They support the work that we do, and we, being part of the British family, support the work that they do as well.

8.1.4 Deputy S.Y. Mézec:

A supplementary, Sir. He says he calls it as he sees it. I call it as I see it as well. I see someone who chooses to question people's motives because he has nothing smarter, so instead engages in petulant behaviour like that. What I would like to know from the Chief Minister, seeing as we talked about this complacency and how that is something that gets jurisdictions into hot water, would he welcome well-meaning questions? Sometimes those questions may be difficult, asking us to find out the detail of this because whatever picture he might like to portray of us, we support Jersey being first class in the world, as we know it already is in this area and we want it to continue to be so and we do not believe in complacency, which is why we ask questions of the practicalities on the timetable, on what that means on the ground. Rather than batting these questions aside with nothing smarter to say and instead being rude and petulant, could he endeavour to take this debate to a higher level where questions are answered honestly, rather than questioning the motives of those who care very deeply about this Island and want to continue to see it prosper?

Senator I.J. Gorst:

It was his party, forgive me, was it not, that was allowed to suggest that we are on a grey list, when there is no such list [**Approbation**] exactly the terminology that others have said we are finished? Some members of his party have said exactly the same: "The end of the world is nigh, Jersey will no longer have a financial services sector." We will because we are meeting the international standards. I am perfectly happy for them to ask me questions. I have provided the timeline that I have provided to the Code of Conduct Group this afternoon and I will continue to engage in a constructive and positive matter because I am not complacent in this regard. But what I will not allow is for Members who are against our financial services industry, who think it is failing, who think it has no future, to pretend otherwise.

The Bailiff:

I am sorry, Deputy, if I have heard you correctly you have accused the Chief Minister of being a liar.

Deputy S.Y. Mézec:

Sir, the Chief Minister stood up and he said that Members were against the finance industry; that was clearly a direction at us because I was the one asking the question. I said in my remarks that I support the finance industry.

The Bailiff:

No, no ...

Deputy S.Y. Mézec:

If the comment was addressed ...

The Bailiff:

No, Deputy. The question is about the use of the word "liar".

Deputy S.Y. Mézec:

I am trying to help you, Sir, by explaining what I meant. If the Chief Minister was not referring to me, then I withdraw the comment immediately. If he was referring to me, when I have just said I support the finance industry, then I cannot, in good conscience, withdraw my comment.

The Bailiff:

Even if he were referring to you, that is not a parliamentary accusation to make. Would you please withdraw the word?

Deputy S.Y. Mézec:

Could he answer my question before I decide whether I want to do that?

The Bailiff:

No, even if he were referring to you it is not a parliamentary word to use.

Deputy S.Y. Mézec:

Sir, I believe that I am being impugned by what he said. I cannot, in all good conscience, not defend myself because I believe he has said something untrue. I am prepared to give way to him if he wanted to say something to assist me on this.

The Bailiff:

You ... Chief Minister.

Senator I.J. Gorst:

I stand by what I said, so perhaps the Deputy forgets something that he said to a visiting Atac group in Jersey perhaps a number of years ago.

The Bailiff:

No, no, no ...

Deputy S.Y. Mézec:

Sir, I said nothing to any Atac group. He is continuing to be dishonest and I cannot withdraw it, Sir. I cannot withdraw it, he is being dishonest.

The Bailiff:

Deputy, I must ask you to withdraw the accusation against the Chief Minister of being a liar and this is a ... Chief Minister.

Senator I.J. Gorst:

No, Sir, I must correct something. I am just being told that it was a different member of the party, not the Member that is asking the question now and, therefore, I apologise.

Deputy S.Y. Mézec:

What did they say? What did they say? He does not know what they said, he is making things up.

The Bailiff:

Deputy, I am sorry, this is not a moment for debate. The question is one of order, to accuse the Chief Minister or any other Member of being a liar in this Assembly is not acceptable parliamentary practice. Would you please withdraw it?

Deputy S.Y. Mézec:

On the basis of him saying it is not me, I will withdraw it and that is the only basis under which I do it.

The Bailiff:

Thank you. Deputy Southern.

Deputy G.P. Southern:

Is it my go?

The Bailiff:

It is your go and then it is Deputy Martin's go. **[Laughter]** Perhaps we can get back to asking questions about the statement, which is the purpose of the question time.

8.1.5 Deputy G.P. Southern:

Of course there is no grey list specifically. There is, however: "The existence of tax regimes that facilitate offshore structures which attract profits without real economic activity." Item 2.2 of the Ecofin (Economic and Financial Affairs Council of the European Union) statement. On that list it says: "Bermuda, Cayman Islands, Guernsey, Isle of Man, Jersey and Vanuatu." Does the Chief Minister accept that we have a regime that facilitates offshore structures which attract profits without real economic activity? Because if he does not then there is no action to be taken and yet he has outlined some actions in order to ensure that we do not attract profits without real economic activity. Is that the case or does he accept that that is exactly what we do?

Senator I.J. Gorst:

I am pleased that we have now, finally, got to the wording of the document and what it is that the E.U. has said, pretending something otherwise. The Deputy knows that what the E.U. say with regard to that criteria is that they have concerns whether we meet that criteria or not, something that I have been speaking about for weeks, even before the E.U. published their list of non-co-operative jurisdictions for tax purposes. I have spoken to the E.U. Commission, E.U. representatives about engaging with them and entering into dialogue in what we can do and how we can give them confidence that we do have economic substance and how we can address their concerns, and that is the policy that this Government is following and it is what I will continue to follow.

8.1.6 Deputy G.P. Southern:

Sir, if I may, supplementary on the timeline. I note the timeline produced by the Chief Minister and the thing that is missing from it is any feedback to this Chamber, to this Assembly on their findings of research or their conclusions as to what to do next until we get something lodged. Will the Chief Minister please commit, for once, to fully informing this Assembly of what his research says and what his conclusions are coming to before we have to debate them in this House?

Senator I.J. Gorst:

I can certainly consider how we can engage. We will be expecting to engage appropriately with the Scrutiny Panel. One will have to be mindful of market-sensitive information. These are important bilateral dialogues between the Government of Jersey and the European Commission, together with my fellow Crown Dependencies. We want to ensure that they are conducted in an appropriate way but we will find a mechanism to communicate with States Members as well throughout this process.

8.1.7 Deputy J.A. Martin:

I think my question follows on there. The Chief Minister's statement makes a couple of commitments by himself and the Minister for External Relations and to work to the end of 2018. I hope the Chief Minister has got a crystal ball but will he be in this job then? It is just a question because he has made commitments but he does say in the sixth paragraph down that he will bring something to the House for debate and I am reading it, it is this Assembly. Is that correct because,

other than that, I think the Chief Minister is sort of tying the hands of possibly the next person, maybe rightly or wrongly, but he is making commitments? He is saying we should be assured by it but I do not think it is in his gift to give, unless I am reading the statement wrong. Can he assure me that it is in his gift to give, please?

Senator I.J. Gorst:

It is normal governmental practice when engaging in international relations to enter into commitments and agreements with foreign governments. One's successor, whoever that is, of course, has to take the view about whether they believe that continuing to follow through on those commitments and that engagement will be a decision for whoever the next Chief Minister is. We know that there are public elections and then there will be an election for Chief Minister and an election for a Minister for External Relations. But I believe it would absolutely be foolhardy for any person taking on this role to suggest that Jersey's future is in anything other than meeting the relevant international standards and the commitments that I have given on behalf of this Government to the E.U.

The Bailiff:

Very well, that brings the question time allowed for questions on the statement to an end.

Deputy M.R. Higgins:

Sir, is it possible for it to be extended by 5 minutes to allow for the time we had with the unnecessary arguments?

The Bailiff:

I think they were not unnecessary arguments but I have already extended it by 3 minutes. Very well, I will continue for another 2 to make up for the rest, Deputy Higgins. **[Laughter]**

8.1.8 Deputy M.R. Higgins:

These are to the point: there are 2 questions for the Chief Minister. One of them is he was trying to find out what economic substance means, has he had any further talks and have we got a definition of economic substance? Secondly, he says that: "This work may include changes to our regulatory and legal framework and additional accounting and reporting obligations. We have already begun the necessary preparation to enact these measures, having regard to the Code Group's requirements and Jersey's best interests." First of all, have you got a definition yet of economic substance and, secondly, what work have you started? What regulatory and legal requirements have got to change?

Senator I.J. Gorst:

The Deputy knows that there is no definitive definition of economic substance and that is why it is dialogue that is being entered into. The Deputy probably also knows that the work that the O.E.C.D. are doing around economic substance, of course, is concluded in the B.E.P.S. Inclusive Framework, is concluded in country-by-country reporting. But an actual definition of economic substance has not been agreed and nor has it been agreed by the E.U. either or the Code of Conduct Group, which is one of the difficulties with which we found ourselves in in trying to answer questions about economic substance when there was no universally-accepted definition. There are some definitions in some laws around the globe and we started to look at what those might be. We have also acknowledged that the economic definition for ...

Deputy M.R. Higgins:

Sir, time is short, could he answer the second part of the question, so we get 2 answers?

Senator I.J. Gorst:

For economic substance could be very different for an investment-holding company or a fund or a trading company and it is all of those issues that we are now starting to consider. We have started to look at some pieces of legislation to see if they could be amended for notification regimes. I have also spoken to the E.U. Commissioner about perhaps having a bilateral tax treaty with the E.U. directly and from our initial discussions and thoughts, it would seem to me that that probably would be the best approach.

The Bailiff:

That brings questions to an end. I notice it is 5.30 p.m. or very nearly.

Senator A.J.H. Maclean:

Sir, if I may, before the adjournment, I just wanted to make a point that Members will note that there is an amendment to the amendment for the Constable of St. John, which has been lodged; I have lodged. I just wanted to ask Members if they would accept taking that tomorrow and I would like to just explain the reason why. I have had very constructive discussions with the Constable of St. John in relation to his amendment. There were some errors in the amendment with regard to numbers, not the fault of the Constable but, nevertheless, the numbers that he took from a previous proposition have now changed. There were some unintended consequences as well as a result of the amendment that he had proposed. We have worked to create an amendment that does work for him, I believe, and for us and delivers on the Constable's objectives and, for that reason, the amendment to the amendment was lodged. I believe the Constable is going to accept the amendment to the amendment on the basis we have worked on it together and I will be accepting his amended amendment, as a result of that, if, of course, Members are minded to accept it. But I just felt it was appropriate to ask the question.

The Bailiff:

You asked Members to agree to reduce the lodging period to allow the second amendment to the Connétable's amendment to be debated tomorrow.

Senator A.J.H. Maclean:

In short, Sir.

The Bailiff:

That is seconded, no doubt. **[Seconded]** Members have to do that to reduce the lodging period. Very well.

Senator P.F.C. Ozouf:

The question that I asked the Minister in the questions without notice is that there is, similarly, an amendment to the second amendment, which you have kindly approved and the Greffe being busy working on circulating to Members, which is being in the process ... I think it is being lodged but it is not in Members' hands.

[17:30]

The Bailiff:

It has not been lodged yet, has it?

Senator P.F.C. Ozouf:

It has been approved and circulated ...

The Bailiff:

I do not think you can ask Members to agree to take a debate on something that has not even yet been lodged; that would be a first, Senator, even for you, if I would say so. **[Laughter]**

Senator P.F.C. Ozouf:

It puts me in a very difficult position, Sir, because it is not the Greffe's fault and it is not my fault that I was delayed. **[Members: Oh!]**

The Bailiff:

Surely the position is that the paperwork ...

Senator P.F.C. Ozouf:

It is in exactly the same position, I just wish to alert Members, Sir. Sorry.

The Bailiff:

Senator, surely the position is the paperwork will be on my desk tomorrow morning. I will announce the fact that it is being lodged and you can then apply, so you will have it dealt with straightaway. But, as a matter of formal sake, I think I would prefer to see it lodged before we decide to take it.

Senator P.F.C. Ozouf:

Fine. Is it fair for me to say to Members that an amendment has been processed, is in the process of being printed? It has been approved following consultation and the reduced lodging period will be asked for the same reason and I am in an impossible position; I get criticised either way.

The Bailiff:

I do not know if it is appropriate or not for you to say that. Very well, we will now adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:31]